

HOUSE JUDICIARY RULES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2005 Legislative Session

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House Judiciary Rules Committee

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS AND STANDARDS FOR PRIVATE CONTRACT PROVIDERS

DOCKET NO. 05-0101-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 72.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

House Judiciary Rules Committee

DEPARTMENT OF JUVENILE CORRECTIONS
Rules and Standards for Private Contract Providers

Docket No. 05-0101-0401
PENDING RULE (Repeal)

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This is a repeal of this chapter. The chapter is being rewritten in a subsequent rulemaking that is being published in this Bulletin following this notice.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the chapter was outdated and rewritten.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
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IDAPA 05.01.01 IS BEING REPEALED IN ITS ENTIRETY.

House Judiciary Rules Committee

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES FOR CONTRACT PROVIDERS

DOCKET NO. 05-0101-0402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 73 through 117.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

House Judiciary Rules Committee

DEPARTMENT OF JUVENILE CORRECTIONS
Rules for Contract Providers

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A new rules chapter is being adopted to replace the existing rules chapter, IDAPA 05.01.01. The new chapter consists of some former rules that were retained resulting in an improvement in format and language, standards criteria for good care and treatment of juveniles placed with contract providers, and standards criteria toward managing risk.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Department held public hearings around the state prior to temporary rule adoption to generate feedback from contract providers and any other interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 05
TITLE 01
CHAPTER 01

05.01.01 - RULES FOR CONTRACT PROVIDERS

000. LEGAL AUTHORITY.

House Judiciary Rules Committee

DEPARTMENT OF JUVENILE CORRECTIONS **Rules for Contract Providers**

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

01. Section 20-504(2), Idaho Code. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards. ()

02. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. ()

03. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. ()

04. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers. ()

05. Section 20-531(4), Idaho Code. Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. ()

06. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. ()

07. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the “Interstate Compact on Juveniles,” the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.01, “Rules for Contract Providers,” IDAPA 05, Title 01, Chapter 01. ()

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 400 N. 10th St., 2nd Floor, P.O. Box 83720, Boise, Idaho 83720-0285. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. ()

House Judiciary Rules Committee

DEPARTMENT OF JUVENILE CORRECTIONS Rules for Contract Providers

**Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)**

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The Idaho Department of Juvenile Corrections is located at 400 N. 10th St., 2nd Floor, Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections' rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. The facsimile number of the office is (208) 334-5120. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the contract providers are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: ()

01. Adult. A person eighteen (18) years of age or older. ()

02. Assessment. The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the service plan. ()

03. Clinical Services Administrator. Administrative person who has oversight of the department's clinical services division. Supervises the regional clinical supervisors and works with the regional superintendents in the maintenance and development of treatment programs. ()

04. Clinical Supervisor. Person who supervises juvenile services coordinators and clinicians in assigned regions. This person is responsible for recommending releases from department custody and approving transfers in collaboration with the clinical services administrator, and regional superintendent. This responsibility also includes oversight of the regional observation and assessment process, and assists in the maintenance and development of treatment programs. ()

05. Commit. Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. ()

06. Community Treatment Team. A team including the juvenile services coordinator, contract provider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. ()

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DEPARTMENT OF JUVENILE CORRECTIONS **Rules for Contract Providers**

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

- 07. Contraband.** Any item not issued or authorized by the contract provider. ()
- 08. Confidential Information.** Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. ()
- 09. Contract Provider.** A residential or nonresidential program under contract with the department to supervise juveniles, provide accountability and competency development in the least restrictive setting, consistent with public safety. ()
- 10. Court.** Means district court or magistrate's division thereof. ()
- 11. Department.** The Idaho Department of Juvenile Corrections. ()
- 12. Detention.** Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. ()
- 13. Director.** The director of the Idaho Department of Juvenile Corrections. ()
- 14. Facility.** The physical plant associated with the operation of residential or nonresidential programs. ()
- 15. Facility Treatment Team.** The group of staff employed by the contract provider who have input into developing the juvenile's service implementation plan; who provide direct services to juveniles; and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. ()
- 16. Health Assessment.** The purpose of a health assessment is to thoroughly review and determine a juvenile's comprehensive health needs. This information is used to develop the medical terms of a juvenile's service plan. ()
- 17. Health Screening.** The purpose of a health screening is to quickly identify a juvenile's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. ()
- 18. Health Services.** Health services are defined as including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service. ()
- 19. Incident Report.** A written document reporting any occurrence or event, or any other incident which threatens the safety and security of staff, juveniles or others, or which threatens the security of the program and which requires a staff response. ()
- 20. Interns.** A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juveniles in the department's custody or their families, under direct supervision of qualified staff. ()

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Rules for Contract Providers

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PENDING RULE (Chapter Rewrite)

- 21. Judge.** A district judge or a magistrate. ()
- 22. Juvenile.** A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. ()
- 23. Juvenile Offender.** A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. ()
- 24. Juvenile Records.** Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. ()
- 25. Juvenile Services Coordinator.** An individual employed by the department who is responsible for the monitoring of therapeutic or rehabilitative treatment services to juveniles participating in a treatment program. This responsibility includes monitoring service plans and progress reports and sharing information with family, community, courts, and with other department employees. ()
- 26. Legal Custody.** The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. ()
- 27. Legal Guardian.** A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. ()
- 28. Mechanical Restraints.** Any method of physical control of a juvenile which involves the use of devices to restrict physical activity. ()
- 29. Mental Health Assessment.** The purpose of a mental health assessment is to thoroughly review and determine a juvenile's comprehensive mental health needs. This information is used to develop the medical terms of a juvenile's service plan. ()
- 30. Mental Health Screening.** The purpose of mental health screening is to quickly identify a juvenile's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. ()
- 31. Nonresidential Programs.** Programs providing services to juveniles in the custody of the department and their families in which the juvenile continues to live with a parent

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PENDING RULE (Chapter Rewrite)**

or guardian and not in a residential care facility. ()

32. Observation and Assessment Program. A residential or nonresidential program designed to complete assessments of juveniles in the custody of the department. ()

33. Physical Restraint. Any method of physical control of a juvenile which involves staff touching or holding a juvenile to limit or control his actions. ()

34. Quality Assurance. Department employees responsible for overseeing contract providers' compliance with contract terms and these rules. ()

35. Region. Subunits of the department organized by geographical areas and including all services and programs offered by the department in that area. ()

36. Regional Facility. Department operated juvenile correctional centers located in each region of the state. ()

37. Reintegration Plan. That part of the juvenile's service plan which specifically addresses the terms, conditions and services to be provided as the juvenile moves to a lower level of care or leaves the custody of the department. ()

38. Release from Department Custody. Refers to the termination of the department's legal custody of a juvenile. ()

39. Restitution. Financial payment or service work intended to reimburse victims for the cost of damage or harm caused by a juvenile. Restitution may be court ordered or may be imposed following a formal disciplinary process within a contract provider program. ()

40. Restricted Clinical Information. Any record, document or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, and psychological testing, or other legally confidential information. ()

41. Room Confinement. Instances in which a juvenile is confined in the room in which he usually sleeps, rather than being confined in an isolation room. ()

42. Separation or Isolation. Any instance when a juvenile is confined alone for over fifteen (15) minutes in a room other than the room in which he usually sleeps. ()

43. Service Implementation Plan. A written document produced by a regional facility or contract provider with input from the community treatment team within thirty (30) days of arrival at regional facility or contract provider. This plan describes interventions and objectives to address the service plan goals in the areas of community protection, accountability, and competency development. ()

44. Service Plan. A written document produced during the observation and assessment period following commitment to the department that defines the juvenile's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration

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services. The service plan addresses the relevant needs and services for each juvenile in areas such as mental health, medical, education, substance abuse, and social skills. ()

45. Staffing. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile's service implementation plan. ()

46. Strip Search. An examination of the juvenile's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the juvenile's clothing while such is not being worn. ()

47. Suicide Risk Assessment. An evaluation performed by a mental health professional to determine the level of immediate risk of a juvenile attempting suicide, and to apply this information in developing a safety plan for the juvenile. ()

48. Suicide Risk Screening. An evaluation that is used to quickly determine, based upon known history and current behavior, whether a juvenile presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. ()

49. Transfer. Any movement of a juvenile in the custody of the department from one (1) facility to another, including a regional facility, without a release from department custody. ()

50. Treatment. Any program of planned services developed to meet risks and needs of juveniles and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juveniles, staff and the community safe. ()

51. Variation. The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. ()

52. Vocational Services. Any service provided related to assessment, education, guidance or training in the area of work or basic living skills. ()

53. Volunteer. A person from the community who freely chooses to do or provide both direct or indirect services to juveniles or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. ()

54. Waiver. The nonapplication of one (1) or more of these rules based upon a request by the provider and a written decision issued by the department. ()

55. Work Program. A public service work project which employs juveniles at a reasonable wage for the purpose of reimbursing victims of juveniles' delinquent behavior. ()

011. -- 099. (RESERVED).

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DEPARTMENT OF JUVENILE CORRECTIONS **Rules for Contract Providers**

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

100. INITIATION OF SERVICES.

Juveniles are committed to the department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code) and the Interstate Compact on Juveniles (Sections 16-1901 through 16-1910, Idaho Code). ()

101. WAIVER OR VARIATION.

Minimum program standards established herein shall apply to all services provided by the contract provider. Any waiver or variation from the standards stated in these rules must receive prior written approval from the department and must be attached as a formal amendment to the contract. ()

102. -- 199. (RESERVED).

200. AUTHORITY TO INSPECT.

01. Inspections. The department shall have the authority to conduct reviews of programs, program operations, and facilities to ensure the contract provider's compliance with these rules. The contract provider shall cooperate with the department's review, and must provide access to the facility and all juvenile records for juveniles in department custody, as deemed necessary by the department. The department may not access individual juvenile records for juveniles not in the custody of the department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available. ()

02. Written Reports. In order to assist the department in monitoring contract programs for key areas of operational performance, each contract provider will be required to submit a written, quarterly report to the department's quality assurance staff. These reports may be submitted by facsimile, mail, or electronically within thirty (30) calendar days of the end of each quarter. The reports shall include, at a minimum, the following information: ()

a. Changes made in the population served, program design or functioning, and table of organization, including specific management and administrative staff who may have left the program; ()

b. Staff turnover during the quarter; ()

c. Number of reportable incidents of the type listed below: ()

i. Assaults against juveniles; ()

ii. Assaults against staff; ()

iii. Behavioral and psychiatric emergencies; ()

iv. Contraband; ()

v. Escapes; ()

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Rules for Contract Providers**Docket No. 05-0101-0402**
PENDING RULE (Chapter Rewrite)

- vi. Injuries or illness requiring significant medical attention; ()
- vii. Restraints; ()
- viii. Separation or isolation; ()
- ix. Sexually acting out; and ()
- x. Suicide precautions. ()
- d. Number of hours and topics included in staff training for the quarter; ()
- e. Personal funds, earned income, and restitution for each juvenile in department custody according to Subsection 212.02; ()
- f. A copy of juvenile grievances and resolutions according to Subsection 246.02; and ()
- g. Number of department referrals made and accepted. ()

03. Additional Reporting Requirements. In situations where the department has determined that the safety, security, or order of a program are at risk, more frequent and more detailed reporting will be required by the director, or designee. ()

201. COMPLIANCE WITH STATE AND LOCAL CODES AND ORDINANCES.

The contract provider shall maintain compliance with all state and local building, life safety, and zoning requirements. Documentation of compliance shall be made available to the Idaho Department of Juvenile Corrections. ()

202. COMPLIANCE WITH RULES REQUIREMENTS.

The contract provider shall comply with all relevant child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," as well as the rules of the Idaho Department of Juvenile Corrections. If a conflict exists between department rules, the more restrictive rule applies. Any and all subcontractors and consultants of the contract provider are also subject to these rules. ()

203. ACCESSIBILITY, GENERAL SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Reasonable Access. The program buildings, parking lots and other facilities shall provide reasonable access as required by the Americans with Disabilities Act and other federal and state laws and regulations. ()

02. Maintenance. The contract provider shall ensure that all structures are maintained in good repair and are free from hazards to health and safety. The facility grounds shall also be maintained and shall be free from any hazard to health and safety. ()

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Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

03. Written Plan. The program shall have a written plan for preventive and ongoing maintenance of the facility. ()

04. Safety Program. Each contract provider shall have a designated staff member who is responsible for the safety program at the facility. This individual shall conduct routine inspections of the facility monthly, with copies of the inspections kept on file for review by the department, to identify: ()

a. Fire safety; ()

b. Existing hazards; ()

c. Potential hazards; and ()

d. The corrective action that should be taken to address these hazards. ()

05. Emergency Procedures. The contract provider will utilize and maintain a current emergency procedure manual which shall include, at a minimum, procedures pertaining to: ()

a. Fire safety and escape; ()

b. Emergency medical care; ()

c. Notification and filing charges on escape; ()

d. Incidents of violence within the facility; ()

e. Suicide prevention; ()

f. Child abuse reporting; and ()

g. Sexual abuse disclosures. ()

204. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the department's requirements for insurance coverage. ()

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and shall comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. ()

03. Maintenance and Equipment Checklist. The contract provider shall have a vehicle maintenance and equipment checklist, which shall include a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes, headlights, shall be made immediately. All worn or missing critical equipment shall be replaced immediately, such as tires, jacks, seat belts. ()

House Judiciary Rules Committee

DEPARTMENT OF JUVENILE CORRECTIONS
Rules for Contract Providers

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

205. TRANSPORTATION.

01. Transportation for Service Plan. It shall be the responsibility of the contract provider to provide all transportation associated with the juvenile's service implementation plan. The family may be relied upon to provide transportation for passes and some other community contacts as long as this does not present any undue risk or burden to the juvenile, family, or to the community. ()

02. Transportation and Notification for Court Proceedings. It is the responsibility of the department to assure the juvenile's appearance in all court proceedings and to arrange transportation as indicated. It is the contract provider's responsibility to immediately notify the juvenile's juvenile services coordinator of court dates and appearances. Contract providers may provide transportation under this section in consultation with the juvenile services coordinator. ()

03. Arrangements. Arrangements for transportation related to court appearances as well as related to transfer or release of juveniles from department custody shall be made between the contract provider and the department's regional transport coordinator located in the contract provider's region. This communication is facilitated through the juvenile services coordinator. ()

04. Gender Specific Transportation. In all transport situations there must be at least one (1) assigned staff of the same gender as the juvenile being transported. ()

05. Transport in Personal Vehicles. Juveniles in the custody of the Idaho Department of Juvenile Corrections shall not be transported in personal vehicles unless an emergency situation exists and is substantiated by documentation. ()

206. JUVENILE RECORDS.

01. Case Management Documents. The contract provider shall maintain individual files on all juveniles which shall include: ()

- a.** Observation and assessment report provided by the department; ()
- b.** A copy of the signed Referral Acceptance/Denial Form; ()
- c.** Additional assessments, which must be kept separate; ()
- d.** Service implementation plans as referred to in Subsection 271.01 of these rules; ()
- e.** Progress reports as referred to in Subsections 271.07 and 271.08 of these rules; ()
- f.** Incident reports as referred to in Subsections 262.02 and 262.03 of these rules; ()

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DEPARTMENT OF JUVENILE CORRECTIONS **Rules for Contract Providers**

Docket No. 05-0101-0402
PENDING RULE (Chapter Rewrite)

- g.** Court documents and dispositions; ()
- h.** Professional correspondence; ()
- i.** Clinical notes, which must be kept separate; ()
- j.** Medical records, which must be kept separate; ()
- k.** Educational records and school history, which must be kept separate; ()
- l.** Identifying information and physical descriptions; ()
- m.** Last known parent or guardian address and telephone number; ()
- n.** Date of admittance and projected release from department custody; ()
- o.** A copy of the written reintegration plan; and ()
- p.** Records of juveniles' earnings and restitution payments. ()
- 02. Confidentiality.** ()

a. Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juveniles. ()

b. All matters relating to confidentiality of juvenile files shall also comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Chapter 1, Sub-Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records". ()

c. Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. These file folders must be stamped "confidential" on the cover or outside folder. ()

d. For contract providers that serve sex offenders, individual treatment assignments, such as journals, detailed sexual histories, must be destroyed at the time the juvenile is transferred or released from the program. ()

03. Automated Records. Automated records shall include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records. The procedure shall also include provisions for backing up automated records. ()

04. Policies and Procedures. The contract provider shall have written policies and procedures to address the confidentiality of juvenile records. In compliance with HIPAA's privacy regulations, written procedures shall designate a privacy officer who will: ()

- a.** Supervise the maintenance of identifiable personal health care information; ()

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- b.** Serve as custodian of all confidential juvenile records; and ()
- c.** Determine to whom records may be released. ()
- 05. Restrictions to Records Access.** ()
- a.** Access to personal health information shall be limited to: ()

 - i. Employees of the department and contract providers to the extent necessary to perform normal business functions, including health treatment, and other functions designed to maintain the good order, safety and security of the juveniles or facility; ()
 - ii. Individuals participating in a staffing for a juvenile, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the department, the contract provider, probation officer, medical or mental health professionals and other appropriate individuals; ()
 - iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. ()
- b.** Access to all other confidential juvenile records shall be limited to the following authorized persons: ()

 - i. Staff authorized by the contract provider and members of the administrative staff of the contract provider's parent agency; ()
 - ii. A parent or guardian or the juvenile, to the extent that disclosure is not privileged and is clinically appropriate; ()
 - iii. Appropriate staff of the department; ()
 - iv. Counsel for the juvenile with signed consent form; ()
 - v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; ()
 - vi. Individuals and agencies approved by the department to conduct research and evaluation or statistical studies; or ()
 - vii. Schools, as appropriate. ()
- 06. Withholding of Information.** If the department or the contract provider believes that information contained in the record would be damaging to the juvenile's treatment or rehabilitation, that information may be withheld from the juvenile, or his parent, or guardian, or others, except under court order. ()

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07. Retention of Juvenile Records. Educational, medical, and drug and alcohol records must be permanently retained. Contract providers shall have a written policy on the retention and disposal of records. At the time of transfer or release from department custody, all records must be forwarded to the juvenile's juvenile services coordinator. ()

08. Requests for Information. Requests for information of any kind about juveniles in department custody, following their release or transfer from a contract provider's program must be directed to the juvenile correctional center in Nampa. ()

207. RELEASE FORMS.

01. Release of Nonmedical Information. The juvenile, parent or guardian, and department representative shall sign a release of information and consent form before information about the juvenile is released to any non-juvenile justice entity. A copy of the consent form shall be maintained in the juvenile's file at the program and in the file maintained by the department. ()

02. Release of Medical Information. Release of medical information requires more specific authorization according to Section 320, of these rules. ()

03. Minimum Information. The release of information and consent form shall, at a minimum, include the following: ()

- a.** Name of person, agency or organization requesting information; ()
- b.** Name of person, agency or organization releasing information; ()
- c.** The specific information to be disclosed; ()
- d.** The date consent form is signed; ()
- e.** Signature of the juvenile and the parent or guardian; ()
- f.** The signature of the person witnessing the juvenile's signature; and ()
- g.** Effective and expiration dates. ()

04. Document Reproduction. The contract provider agrees that no documents provided by the department shall be reproduced or distributed without the written permission of the department. ()

208. JUVENILE PHOTOGRAPHS.

01. Limitations. No juvenile in the custody of the department shall be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. ()

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02. Department Authorization. Permission to release or use the photographs and any other visual image of juveniles in the custody of the department shall require written authorization from the department director or designee. ()

209. CONTRACT PROVIDER ADMINISTRATIVE RECORDS.

01. Documentation Retention. The contract provider shall document and retain documentation of all information related to the following items: ()

a. Program consultation provided at the facility, such as technical assistance on program design and implementation; ()

b. Training provided to staff; ()

c. All alleged instances of child abuse; ()

d. Fiscal and program audits or reviews, including corrective actions required and taken; ()

e. Reports of sexual abuse disclosures to Idaho Department of Health and Welfare or law enforcement; and ()

f. Juvenile or staff grievances. ()

02. Employee Files. Employee personnel files shall contain minimum qualifications for the job held, hiring information, annual performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgements of outstanding performance. ()

210. CLOTHING AND PERSONAL ITEMS.

01. Sufficient Clothing. Juveniles shall have sufficient clothing of the proper weight to participate in activities included in their service implementation plan. Juveniles may arrive at the facility with their own clothing and personal items, which shall be inventoried. If the juvenile does not have sufficient clothing, or appropriate clothing, the contract provider shall provide or purchase adequate and appropriate clothing for the juvenile. Contract providers shall not request nor require that the parent or guardian pay for or purchase clothing. ()

02. Release from Facility. All clothing and incidentals become the property of the juvenile upon release from the facility. The contract provider will ensure the proper care and cleaning of clothing in the juvenile's possession. ()

03. Replacement Clothing. Clothing provided or purchased as replacement will be at the expense of the contract provider. Unique items of clothing not required for program participation may be purchased at the expense of the juvenile. ()

211. FOOD SERVICE.

Juveniles shall be served a varied and nutritional diet with menus approved or developed by a

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qualified nutritionist or dietician and which meet the recommended dietary allowances of the National Research Council or its equivalent. Juveniles must be fed three (3) meals daily in accordance with the child care licensing rules of the Idaho Department of Health and Welfare.

()

212. PERSONAL FUNDS.

01. Funds Handled by a Contract Provider. The contract provider will follow accepted accounting practices in managing personal funds of juveniles and in accordance with Section 213 of these rules.

()

a. A contract provider shall be required to deposit all personal funds collected for the juvenile in a public banking institution in an account specifically designated “Juvenile Personal Funds” and to maintain a reconciled ledger showing each juvenile’s deposits and withdrawals within the “Juvenile Personal Funds” account. If the funds are collected in an interest bearing account, the interest accrued must be credited to the juvenile for whom the funds are collected. In independent living programs, the required personal account may be opened by the juvenile and will be maintained by him as a part of his competency development.

()

b. All withdrawals by a juvenile, or expenditures made on behalf of a juvenile by the contract provider, shall be documented, signed, and dated by the juvenile. This documentation shall be reconciled to the juvenile’s ledger monthly.

()

c. A contract provider may limit the amount of any withdrawal.

()

d. A contract provider shall not require juveniles, parents or guardians to pay for services and supplies which are to be provided by the contract provider, such as clothing, toiletries, linen, laundry, drug screens, routine supplies, and lunch money.

()

02. Reporting Requirements. A report shall be filed quarterly with the department’s quality assurance staff as part of the report in Subsection 200.02 of these rules. The personal funds report shall show a list of all juvenile account balances, date of admission and, if appropriate, the date of transfer or release from department custody. The personal fund account is subject to review or audit by the department or its representatives at any time. Any discrepancies in juvenile accounts shall be resolved within fourteen (14) calendar days of notification.

()

03. Transfer of Personal Funds. When a juvenile is released from department custody or transferred to another program, the balance of the juvenile’s account shall be given to or mailed to the juvenile within five (5) business days and documented on the Contract Provider Juvenile Check-Out Form supplied by the department.

()

04. Juveniles with Earned Income. The contract provider is responsible for maintaining and accounting for any money earned by a juvenile. These funds are to be deposited in the personal funds account. The contract provider shall establish a written plan, as part of the service implementation plan, for the juvenile to save at least ten percent (10%) of his net earnings. The plan shall specify the purpose for which funds saved will be used at program completion, such as deposits on utilities and housing, or purchase of tools necessary for employment. Additionally, there shall be a plan for the priority use of the juvenile’s earned income to pay court

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ordered restitution and a specific allocation for daily incidental expenses. ()

213. RESTITUTION.

A contract provider may utilize a portion of a juvenile's personal funds or earned income for the payment of restitution to victims or for program damages according to these rules. ()

01. Victim Restitution. Except for those juveniles identified in Subsection 212.04 of these rules, victim and court ordered restitution shall be a claim against and paid from the juvenile's personal funds account in the amount of fifty percent (50%) of those funds. Should the juvenile have no other funds available, then a plan must be developed by the contract provider to assist the juvenile in earning the amount of restitution and, if appropriate, help him develop a payment plan. ()

02. Restitution for Damages. Restitution for damages at the program will not be paid to the exclusion of victim or court ordered restitution. The contract provider shall not access the juvenile's account for program damages without following the disciplinary process provided in these rules. ()

a. Restitution may be ordered as part of the disciplinary process when a juvenile has willfully damaged or destroyed property, has caused or attempted to cause injury to himself, other juveniles or staff resulting in expenses being incurred, or has a pattern of falsely alleging injury or illness with the result that medical expenses are incurred. ()

b. "Actual Cost" restitution may be imposed when property is destroyed and when an incident results in outside medical care for staff or juveniles. ()

c. In no instance shall a contract provider withdraw all funds in a juvenile's account to satisfy restitution for program damages. ()

03. Disciplinary Process. All juveniles shall be afforded an administrative hearing in accordance with the disciplinary procedure of the contract provider and standards set forth in these rules. ()

214. NOTIFICATION OF DEATH OF A JUVENILE.

In the event of the death of a juvenile who is in the department's custody, the contract provider shall immediately notify the regional facility, juvenile's parent or guardian, the local coroner, and law enforcement. Other notifications will be coordinated between the contract provider and the department. ()

215. EMERGENCY CLOSURE OF FACILITY.

In the event of a natural disaster, fire, flood, or other emergency situation in which the contract facility may be closed temporarily, the contract provider will notify the regional facility in its respective region. ()

216. -- 219. (RESERVED).

220. CONSULTANTS AND SUBCONTRACTORS.

It is the responsibility of the contract provider to notify the department's quality assurance staff

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promptly, in writing, of any proposed changes in the use of consultants or subcontractors in the operations of a program. Any services offered by consultants and subcontractors, or interns, and not included in the terms of the existing contract, require the prior approval of the department. It is the responsibility of the contract provider to ensure that any consultant, subcontractor, or staff meets at least the minimum staff qualifications and terms of the original contract and these rules. The contract provider shall maintain a list of subcontracted service providers, interns, and their qualifications. Documentation of services provided by subcontractors shall include the number of units of service provided per program area. ()

221. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the department must possess all licenses or certifications for their particular position as required by statute, rule, or by the Idaho Department of Health and Welfare, as applicable. ()

02. Education or Experience. All individuals providing services must be qualified to do so on the basis of knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the department. ()

03. Position Descriptions. Contract providers shall maintain written position descriptions for every job class established in the organization. In all cases, minimum qualifications for professional level staff must meet licensure and certification requirements. In all cases, the particular job titles used by the contract provider to provide counseling, therapy, direct care, and supervision of juveniles, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. ()

222. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social or familial deficits or dysfunctions presented by the juvenile, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the state of Idaho as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. ()

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress and the provision and monitoring of therapeutic or rehabilitative treatment services to juveniles participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology or counseling, and must be licensed as a social worker in the state of Idaho. ()

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03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile in connection with his overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field or have a high school diploma and two (2) years related experience in providing recreational services to juveniles. ()

04. Rehabilitation Specialist or Case Manager. An individual, under direct supervision, who assists the juvenile in implementing his service implementation plan; evaluating the juvenile; and maintaining his case record with respect to all nonclinical matters. The rehabilitation specialist or case manager also assists in presenting the case in staffing; communicates with appropriate individuals, including community interests, regarding the juvenile; and prepares written communications, under supervision, including discharge reports. The rehabilitation specialist or case manager may also serve as the social worker if properly licensed in the state of Idaho. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. ()

05. Rehabilitation Technician or Direct Care Worker. An individual responsible for providing individual or group rehabilitative therapeutic services, supervising juveniles' day-to-day living activities, and performing such duties as preparing nutritious meals, supervising and training juveniles in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. ()

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the Individuals with Disabilities Education Act. This individual must hold a valid teaching certificate, allowing him to teach students with educational disabilities, in the state where the services are being provided. ()

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching certificate in the state where the services are being provided and in the appropriate instructional field. ()

223. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The contract provider shall ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juveniles, and provide for their health, safety and treatment needs. Staffing patterns shall ensure that professional staff are available to juveniles at times when they are in the program or facility. The contract provider staff should provide consistency and stability so that the juveniles know the roles of each staff member. Specific staffing ratios shall be determined in each contract and shall be based on the level of intervention of the program and the risk level of the juvenile population. ()

02. Emergency Staffing Ratios. At all times at least one (1) staff member on duty per twenty (20) juveniles in residence must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). ()

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224. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff and volunteers shall be conducted in accordance with a written plan approved by management and coordinated by a designated staff member. The training plan shall include: ()

- a.** Annual inservice training for all staff; ()
- b.** Those areas requiring current certification; ()
- c.** Prior to being assigned sole responsibility for supervision of juveniles, rehabilitation technicians or direct care staff shall have training in the following areas: ()
 - i.** Principles and practices of juvenile care and supervision; ()
 - ii.** Program goals and objectives; ()
 - iii.** Juvenile rights and grievance procedures; ()
 - iv.** Procedures and legal requirements concerning the reporting of abuse and critical incidents; ()
 - v.** Handling of violent juveniles (use of force or crisis intervention); ()
 - vi.** Security procedures (key control, searches, contraband); ()
 - vii.** Medical emergency procedures, first aid, and CPR; ()
 - viii.** Incident reporting; ()
 - ix.** How to recognize and respond to suicidal behavior; ()
 - x.** How to access emergency health and mental health care; ()
 - xi.** Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; ()
 - xii.** Appropriate response to health-related emergencies; ()
 - xiii.** Training to meet the requirements of federal educational regulations; and ()
 - xiv.** Training on the appropriate and safe transportation of all juveniles. ()
- d.** Inservice training for all first-year staff shall include: ()
 - i.** Program policies and procedures; ()

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- ii. Job responsibilities; ()
- iii. Juvenile supervision; ()
- iv. Safety and security emergency procedures (fire, disaster, etc.); ()
- v. Confidentiality issues; ()
- vi. Juvenile rights and grievance procedures; ()
- vii. Communicable diseases, bloodborne pathogens, and universal precautions; ()
- viii. Behavioral observation, adolescent psychology and child growth and development; ()
- ix. Juvenile Corrections Act, balanced and restorative justice, and department rules for contract providers; ()
- x. Basic security procedures; ()
- xi. Signs and symptoms of chemical use or dependency; ()
- xii. Drug-free workplace; and ()
- xiii. Diversity training to include cultural awareness. ()

02. Minimum Mandatory Staff Training Requirements. Good professional practice in the area of juvenile treatment requires staff to be competently trained. Therefore, all staff are required to have: ()

a. Eighty (80) hours of training for all staff during first year of employment. Up to twenty-five percent (25%) of the eighty (80) hours may be fulfilled by working with an experienced staff mentor, who must verify and document basic competencies for new staff; and ()

b. Forty (40) hours of training per year following the first year of employment.()

03. Trainer Qualifications. ()

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to, first aid, CPR, physical intervention techniques, shall have appropriate certification which must be documented in their personnel or training file. ()

b. Individuals who provide instruction in treatment shall have appropriate training, education, and experience which must be documented in their personnel or training file. ()

04. Documentation of Training. Staff training records shall be kept by a designated staff person. Separate training records shall be established for each staff member and volunteer

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and shall include: ()

- a. Name; ()
- b. Job title; ()
- c. Employment beginning date; ()
- d. Annual training hours required; and ()
- e. A current chronological listing of all training completed. ()

05. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Copies of curriculum materials must be maintained. ()

225. VOLUNTEERS.

Programs should consider soliciting the involvement of volunteers to enhance and expand their services. However, volunteers recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Volunteers shall not be assigned sole supervision of juveniles. ()

226. VOLUNTEER PLAN.

01. Written Plan. Programs that utilize volunteers regularly shall have a written plan that includes stipulations for their use and training. Training provided must include all of the information necessary for the volunteers to successfully perform their roles within the program. ()

02. Recruitment. Recruiting of volunteers is conducted by the chief administrative officer or designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. ()

03. Volunteer Requirements. ()

a. Volunteers must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; ()

b. Volunteers must complete an application for the position and be suited for the position to which they are assigned; ()

c. Volunteers must agree in writing to abide by all program policies; ()

d. Volunteers who perform professional services must be licensed or certified as required by state law or rule; ()

e. Written job descriptions must be provided for each volunteer position; and ()

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f. Volunteers must agree to background and criminal record checks as prescribed by state law. ()

04. Supervision. Volunteers will be supervised by a paid employee of the contract provider. This individual shall coordinate and direct the activities of the volunteer. Volunteer performance shall be evaluated periodically and evidence of this evaluation be made part of the personnel record of the volunteer. ()

05. Documentation. Contract provider shall maintain individual personnel files for each volunteer working in the program. The files shall contain all documentation as described in Subsection 226.03 of these rules. ()

06. Termination. There will be a procedure established for the termination of volunteers when substantial reasons for doing so exist. ()

227. INTERNS.

Programs should consider involving interns to enhance and expand their services. However, interns recruited to supplement and enrich a program, may not be substituted for the activities and functions of facility staff. Interns shall not be assigned sole supervision of juveniles. ()

01. Written Plan. Programs that utilize interns regularly shall have a written plan that includes stipulations for their use and training. Training provided must include all of the information necessary for the interns to successfully perform their roles within the program. ()

02. Intern Requirements. ()

a. Interns must be documented to be enrolled in an accredited school or program for the profession, must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; ()

b. Interns must have a fully developed internship or practicum agreement which details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which they are enrolled. The internship agreement must include the signatures of the intern, supervising contract provider staff, and a representative of the academic institution in which the intern is enrolled. ()

c. Interns must agree in writing to abide by all policies and standards of conduct, and must agree to meet the ethical standards for the profession for which they are training; ()

d. Interns who perform professional services must be licensed or certified as required by state law or rule, or must be documented to be supervised directly by staff meeting those credentials; ()

e. Interns must agree to background and criminal record checks as prescribed by state law. ()

03. Supervision. An intern will be supervised by a paid employee of the contract

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provider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern. Intern performance shall be evaluated periodically and evidence of this evaluation made part of the work record of the intern. ()

04. Documentation. Contract provider shall maintain individual personnel files for each intern working in the program. The files shall contain all documentation as described in Subsection 227.02 of these rules. ()

05. Termination. There will be a procedure established for the termination of interns when substantial reasons for doing so exist. ()

228. CRIMINAL BACKGROUND CHECKS.

All contract providers providing services to the department shall ensure that all employees, interns, and volunteers, as required by law, have undergone a criminal background check in the manner and form required by IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho or any other state, will also result in an unconditional denial of employment for direct care or services, or where the employee would have any opportunity to have contact with juveniles in the contract provider's care. Documentation of appropriate requests and responses shall be kept in confidential employee personnel files. ()

229. DRIVERS.

All drivers of vehicles transporting juveniles must possess a valid Idaho driver's license and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the contract provider. Personnel files must contain evidence of training to transport juveniles as well as other appropriate documentation. When parents, guardians, or others are allowed to transport juveniles for any reason, it is the responsibility of the contract provider to ensure that the individual holds a current and valid driver's license. ()

230. -- 239. (RESERVED).

240. JUVENILES' RIGHTS AND RESPONSIBILITIES.

01. Contract Providers' Obligations. The contract provider must observe, and not infringe upon, the rights of each juvenile in its facility or program. The contract provider shall also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. ()

02. Religious Services and Special Needs. Each juvenile and his family will be advised in writing of the obligation of the contract provider to allow access to appropriate religious services, and to make reasonable accommodations for any disabilities, language barriers, or other special needs. A signed copy of this notice shall be placed in the juvenile's file. ()

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03. Juveniles' Program Responsibilities. The contract provider shall inform each juvenile, upon admission to its program, of his responsibilities during the program. Additionally, each juvenile shall have an understanding of the following program expectations: ()

- a. Requirements needed to complete program; ()
- b. How to access medical services; ()
- c. How to file a grievance; and ()
- d. How to contact his juvenile services coordinator and juvenile probation officer. ()

241. DISCIPLINE OF JUVENILES.

01. Written Policies and Procedures. All providers offering treatment services shall have comprehensive written discipline policies and procedures, which shall be explained to all juveniles, families, and staff. These policies shall include positive responses for appropriate behavior. They shall include a provision for notice to the juvenile being disciplined, a mechanism for a fair and impartial hearing by a disciplinary board, and a process for appeal. ()

02. Problem Resolution. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile. A contract provider shall make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile. Any restriction of a juvenile's participation in a program resulting from a formal disciplinary action must be reported in an incident report. ()

242. FORMAL DISCIPLINARY PROCESS.

01. Prior To and Upon Initiating a Formal Disciplinary Action. Prior to and upon initiating a disciplinary action, careful attention should be given to the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. ()

02. Control of Juveniles. Staff will make every effort to maintain control of juveniles through positive methods. ()

03. Discipline. Discipline will be administered in a way to create a learning experience for the juvenile, and never in a way that degrades or humiliates a juvenile. ()

04. Other Juveniles. No juvenile shall supervise nor carry out disciplinary actions over another juvenile. ()

05. Prohibited Actions. The contract provider is prohibited from using certain actions as disciplinary responses as listed in the child care licensing rules of the Idaho Department of Health and Welfare. ()

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06. Denial of Services. Denial of the following are prohibited as disciplinary responses: ()

- a.** Educational and vocational services; ()
- b.** Employment; ()
- c.** Health or mental health services; ()
- d.** Access to family, juvenile probation officer, and legal counsel; and ()
- e.** Religious services. ()

243. APPEAL OF FORMAL DISCIPLINARY PENALTIES.

Each contract provider shall have a formal written process through which a juvenile can appeal a disciplinary action and receive a review of his case. The contract provider shall explain to the juvenile how to use the appeal process. The juvenile must be informed that in any event he may include his juvenile services coordinator in the disciplinary process. ()

244. ROOM RESTRICTIONS.

The contract provider shall have written policies and procedures regulating the use of the juvenile's room for "room restriction." The policy shall ensure that there are procedures for recording each incident involving the use of restriction. The reason for the room restriction shall be explained to the juvenile and he shall have an opportunity to explain the behavior. Other less restrictive measures must have been applied prior to the room restrictions. Juveniles in room restriction shall have access to the bathroom. Staff shall check on a juvenile in room restriction a minimum of once every fifteen (15) minutes. Room restriction may only be used in an unlocked area. Room restriction shall not exceed a total of eight (8) hours within a twenty-four (24) hour period. Contract providers must ensure that juveniles with a history of depression or suicidal ideation and those who have exhibited these behaviors while in care, are checked at least every five (5) minutes in order to ensure their safety. Additionally, if any level of suicide precaution is initiated, constant observation must be maintained. All items in the area that might be used to attempt self-harm should be restricted or removed. ()

245. BATTERY ON STAFF.

All instances of battery committed on staff shall be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident shall be reported to the juvenile's juvenile services coordinator as an incident report according to Subsection 262.02 of these rules. ()

246. GRIEVANCE PROCEDURES.

01. Written Procedures. Each program shall have a written grievance procedure for juveniles, which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It shall be written in a clear and simple manner and shall allow juveniles to make complaints without fear of retaliation. ()

02. Grievance Forms. The grievance procedure shall be explained to the juvenile by a

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staff member who shall enter a note into the juvenile's file confirming the explanation. Grievance forms shall be in a location accessible to juveniles without having to request such a form from staff. Completed forms should be placed in a secure area until collected and processed weekly. A copy of the grievance and the resolution of that grievance must be attached to the quarterly report as specified in Subsection 200.02 of these rules. ()

247. LETTERS.

01. Restrictions. Juveniles shall be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile's service implementation plan. There shall be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. However, juveniles will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week. ()

02. Inspection of Outgoing Letters. ()

a. Outgoing letters are to be posted unsealed and inspected for contraband. ()

b. Exception: Outgoing "privileged" mail may be posted, sealed and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this rule, "an identifiable source" means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee has been verified. Possible identifiable sources are the following: ()

i. Court(s); ()

ii. Attorney(s); ()

iii. Juvenile services coordinator, or director of the Idaho Department of Juvenile Corrections; ()

iv. Other state and federal departments, agencies and their officials; and ()

v. Members of the press. ()

c. Upon the determination that the mail is not identifiable as privileged mail, said mail shall be opened and inspected for contraband. ()

03. Inspection of Incoming Letters. All incoming letters must be opened by the juvenile to whom it is addressed and may be inspected for contraband by staff and only in the juvenile's presence. ()

04. Reading of Letters. Routine reading of letters by staff is prohibited. The department or court may determine that reading of a juvenile's mail is in the best interest of the juvenile, and is necessary to maintain security, order or program integrity. However, such reading

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of mail must be documented and unless court ordered, must be specifically justified and approved by the juvenile services coordinator. Under no circumstances shall a juvenile's privileged mail be read. ()

248. PACKAGES.

All packages shall be inspected for contraband. ()

249. PUBLICATIONS.

Books, magazines, newspapers and printed matter which may be legally sent to juveniles through the postal system shall be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. Juveniles will not be allowed to enter into subscription agreements while in department custody. ()

250. DISTRIBUTION OF MAIL.

The collection and distribution of mail is never to be delegated to a juvenile. Staff shall deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile to whom it is addressed. ()

251. VISITATION.

The contract provider shall develop written rules governing visiting at the facility and shall provide a copy to each juvenile, his parent or guardian, and the juvenile services coordinator. Visitation policy must include specific restrictions on those under the influence of alcohol or drugs. In all cases, the contract provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the contract provider's criteria. The contract provider is responsible for developing and implementing policy concerning visitation which protects the safety of visitors, staff, and juveniles. This may restrict visitation below an established age or provide for higher levels of supervision in circumstances where safety may be at risk. ()

252. PERSONAL SAFETY.

01. Responsibility. Every juvenile has the fundamental right to feel safe. Contract providers have the responsibility to ensure that juveniles are safe while in their care. Every juvenile shall be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile does not feel safe. ()

02. Periodic Contacts. The contract provider's managers should make periodic contact with juveniles in the program to determine if they feel safe and are comfortable when interacting with peers and staff. ()

253. SMOKING AND SALE OF CIGARETTES.

01. Purchase or Use. Juveniles in department custody, regardless of age, are strictly prohibited from purchasing or using tobacco products. ()

02. Written Policies. Every contract provider shall establish written policies and procedures banning the use of cigarettes and other tobacco products by juveniles at the facility. ()

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254. RESEARCH.

01. Written Policies. Residential and nonresidential programs shall have written policies regarding the participation of juveniles in research projects. Policies shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes. ()

02. Voluntary Participation. Policies shall govern voluntary participation in nonmedical and nonpharmaceutical research programs. However, juveniles shall not participate in any research program without prior written approval from the director or designee. ()

255. -- 259. (RESERVED).

260. PROGRAMMING.

01. Basic Program Requirements. Contract providers offering residential and nonresidential programs for juveniles must provide opportunities and services for juveniles to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be research based, gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juveniles involved in these programs is the successful return of the juvenile to the community without committing further crimes. ()

02. General Requirements. ()

a. Contract providers must provide a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy. ()

b. Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juveniles, and those programs serving sexually abusive juveniles, must be able to demonstrate that the program services offered are supported by research. ()

c. Programs serving female juveniles must be able to demonstrate that the services provided include elements of a program specific to the unique situations and circumstances facing female juvenile offenders. ()

d. Program services for individual juveniles must be designed based upon a documented assessment of strengths, as well as needs and risks, and must target those behaviors or circumstances which have contributed to the juvenile's delinquency and which can reasonably be changed (criminogenic needs). ()

e. Professional level services offered as a part of the program must be provided by staff meeting the requirements set forth in Sections 220 through 222, of these rules. ()

f. Progress made by individual juveniles in each service area, that is a portion of the service implementation plan, must be documented in at least monthly progress notes and reported

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in written progress reports at least every two (2) months. ()

g. Programs that contract with the department to serve juveniles and their families must: ()

i. Provide humane, disciplined care and supervision; ()

ii. Provide opportunities for juveniles' development of competency and life skills; ()

iii. Hold juveniles accountable for their delinquent behavior through means such as victim-offender mediation, restitution, and community service; ()

iv. Seek to involve juveniles' families in treatment, unless otherwise indicated for the safety and benefit of the juveniles or other family members; ()

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; ()

vi. Participate fully with the department and the community treatment team in developing and implementing service plans for juveniles they serve; ()

vii. Provide juveniles with educational services based upon their documented needs and abilities; and ()

viii. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile. ()

h. Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile to the community. All juveniles committed to the department shall have a written reintegration plan developed as a part of their service implementation plan. ()

03. Comprehensive and Current Program Description. Contract providers must provide, and keep current with the department, a program description detailing the range of services to be provided and the methods for providing these services. The current program description will be attached to the contract. At a minimum, this program description must include: ()

a. Target population and specific admission criteria; ()

b. Primary and secondary treatment modalities; ()

c. Outline of daily schedules for juveniles and staff; ()

d. Plans for providing educational services, including full compliance with all applicable federal and state law and rules for special education and Title I services; ()

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- e.** Plans for providing emergency and routine health and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; ()
- f.** Plans for providing religious services, recreation services, and other specialized services as indicated by the needs of the identified target population; ()
- g.** Plans for the use of volunteers to provide for support elements of the program; ()
- h.** Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; ()
- i.** A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery, and accounting for the costs of all services provided by consultants and subcontractors; ()
- j.** A detailed description of the behavior management component of the program; and ()
- k.** A copy of any memoranda of understanding with the local educational authority for providing educational services. ()

04. Advance Notice of Program or Population Changes. Contract providers shall notify the department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the facility, closure of the facility, changes in ownership or in the organizational structure. ()

261. PROGRAM POLICY REQUIREMENTS.

- 01. Written Policies.** Programs must have, at a minimum, the following written policies concerning program operations available at the program site. ()
- a.** Program elements and implementation. ()
 - b.** Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program. ()
 - c.** Criteria for assigning juveniles to different units within the program, if applicable. ()
 - d.** The provision of (or referral for) emergency and routine health and mental health services for the population. ()
 - e.** The prevention and monitoring of suicidal behavior. The policy at a minimum shall require that: ()

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i. A suicide risk screening be completed within no more than two (2) hours of a juvenile's admission into a facility. The screening is done to identify an immediate threat of suicide or self-harm and the need for a suicide risk assessment. Further, the screening is a system of structured and documented observation, interview and review of behavioral, medical, and mental health information. ()

ii. A suicide risk assessment, if appropriate, be completed by a mental health professional for the purpose of determining the level of immediate risk of a juvenile attempting suicide. A suicide risk assessment is a system of structured and documented observation, interview and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information, interviews of staff and the juvenile concerning the behavior that seems to present the threat of self-harm or suicide and the development and dissemination of a safety plan to address the risk as it is determined to exist. A suicide risk assessment typically involves an assessment of the juvenile's determination to act on his intentions of self-harm, a determination of the depth of his planning for making the attempt, the availability of the items or situations necessary for him to act on that plan and the lethality of the plan as expressed. Reassessment of suicide risk is made at a time determined by the mental health professional completing the assessment and is ideally completed by that same mental health professional. ()

f. Behavior management within the program, including use of points and levels, restraints, separation, detention and other types of special management. ()

g. Supervision of juveniles. This policy shall include managing juvenile movement within the program, including the timely transfer of behavioral information about juveniles from staff at shift change. ()

h. Juveniles' access to the community. This policy shall include use of community schools or job sites, and individual or group activities away from the program site. For residential programs, this also includes day or home passes. ()

i. Provision of educational and vocational services. ()

j. Administrative coverage in emergency situations, after regular work hours (residential only). ()

k. Documentation and reporting of critical incidents to program administrators, the department and others on the community treatment team. ()

l. Treatment planning and progress reporting to the department, juvenile, family and others on the community treatment team. ()

m. Reintegration. The policy shall describe criteria for successful completion of program, termination from program prior to completion, and the involvement of the department and community treatment team. ()

n. Grievances. ()

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- o.** Visitation. ()
- p.** Correspondence, including telephone and mail. ()
- q.** Emergency procedures in the event of a natural disaster. ()
- r.** Searches of staff and visitors. ()

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the department. ()

262. PROGRAM OPERATIONAL REQUIREMENTS AND CASE MANAGEMENT.

01. General Requirements. ()

a. Programs should provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juveniles, and teaches and promotes healthy life choices. Programs should specifically address those factors in juveniles' lives that contribute to delinquency and that can be realistically changed. ()

b. Programs must be open to the community by encouraging appropriate telephone and mail contact between juveniles and their families, by encouraging visitation, and by involving volunteers in support of the program. ()

c. Contract providers must structure and document services offered in the program so that continuity in case planning is obvious. Health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. Progress on goals associated with those needs must be recorded in progress notes in a case file at least monthly and in a written progress report at least every two (2) months. Service needs remaining at the time of release from department custody or transfer must be accounted for in the reintegration plan for each juvenile. ()

d. Without authorization from the Idaho Department of Health and Welfare and the department, a residential care contract provider shall not admit more juveniles into care than the number specified on the provider's license. Contract providers wishing to increase capacity are responsible for contacting the Idaho Department of Health and Welfare. A copy of the written confirmation to the contract provider from the Idaho Department of Health and Welfare for verbal approval to exceed the licensed capacity shall be forwarded to the department's clinical supervisor in the region and to the department's quality assurance staff. ()

e. Programs may not, under any circumstances, involve juveniles in plethysmographic assessments. The use of polygraphs for juveniles adjudicated for or documented to have demonstrated sexually abusive behavior, shall only be undertaken by court order or with the specific written authorization of the department's regional clinical supervisor, and then only with the full, informed consent of the juvenile, and if he is a minor, his parent or guardian. Contract providers shall not make treatment decisions solely on the results of a polygraph. Polygraphers used in this process must be able to provide documentation of specific

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training in the use of polygraphy with sexually abusive juvenile offenders. ()

02. Reporting Incidents. ()

a. If any of the following events occur, the contract provider must immediately notify the juvenile's parent or guardian, juvenile services coordinator, juvenile probation officer, and the department's regional state facility by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. ()

i. Health and mental health emergencies, including but not limited to, every instance of emergency room access; ()

ii. Major incidents such as death of a juvenile, suicide, attempted suicide or threat of suicide, attempted escape, sexual misconduct among juveniles or by staff, criminal activity resulting in arrest or filing a report with local law enforcement, or any relevant report made to the Idaho Department of Health and Welfare; ()

iii. Any incident of restraint which involves the use of medications, chemicals, or mechanical devices of any kind; ()

iv. Any use of separation or isolation for more than two (2) hours; ()

v. Incidents of alleged or suspected abuse or neglect of juveniles; and ()

vi. Incidents involving the disclosure of criminal behavior by juveniles. ()

b. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ()

03. Incidents Not Requiring Immediate Notice. ()

a. Contract providers must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than ten (10) business days after the incident. ()

b. A detailed incident report is required for each incident or activity which jeopardizes the safe operation of the facility. This would include but not be limited to instances of lost keys or tools; major misconduct by one (1) or more juveniles or staff; discovery of contraband such as weapons or drugs; and significant property damage resulting from misconduct,

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negligence, or from incidents such as explosions, fires, floods, or other natural disasters. ()

c. A detailed incident report is also required for each incident of staff or juvenile misconduct which results in any type of: ()

i. Injury; ()

ii. Physical restraint; ()

iii. Suspension; ()

iv. Termination of work; ()

v. Program participation; ()

vi. Separation, isolation, or room confinement for less than two (2) hours; ()

vii. Detention; or ()

viii. Arrest of a juvenile. ()

04. Incident Report Content. Contract providers may elect to use the department's standard incident report form or may use another form as long as all of the following information is included: ()

a. Juvenile's assigned unit; ()

b. Date and time of the incident; ()

c. Witnesses; ()

d. Persons notified with date and time of notice; ()

e. Type of incident by category, such as assault on staff, assault on juvenile, injury or illness, property damage, contraband, suicide attempt or threat, escape or attempted escape, or other misconduct; ()

f. Action taken by category, such as physical restraint, separation, isolation, or room confinement with times in and out, suicide precautions, or escape precautions initiated; ()

g. Brief narrative description of the incident; ()

h. Signature of staff and reviewing supervisor; and ()

i. Documentation of injury and medical attention provided. ()

05. Escapes. In all instances of escape, the contract provider must immediately notify the juvenile correctional center in Nampa first, followed by the regional state facility, juvenile's

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parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile). A written incident report shall also be transmitted within twenty-four (24) hours to the juvenile's parent or guardian, juvenile services coordinator, and the juvenile probation officer, unless notification to the juvenile's parent or guardian would endanger the juvenile. Transmission may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. ()

a. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the department. ()

b. The contract provider shall not transfer a juvenile at the time of an escape. The juvenile shall continue to be assigned to the program, although not physically present for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile was on escape status up to forty-eight (48) hours. Should the program choose to transfer the juvenile after his return, then the procedures outlined in Subsections 276.04 and 276.08, of these rules, shall apply. If the juvenile is apprehended, the contract provider should contact the juvenile services coordinator to plan for transfer of the juvenile to a regional facility for an updated assessment and for a placement decision. ()

06. Monitoring the Location of Juveniles. The contract provider must have and strictly follow a comprehensive policy covering the supervision of juveniles, including a plan for monitoring all movement of those juveniles both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile assigned to that program at all times. ()

07. Nonresidential Absences. Nonresidential programs shall make reasonable efforts to ensure that the juveniles attend their program daily or as otherwise specified in the service implementation plan. The nonresidential program shall inform the juvenile services coordinator of daily attendance and all attendance problems. This information must be documented in at least monthly progress notes and must be reported in written progress reports every two (2) months. ()

263. FACILITY SEARCHES.

01. Periodic Searches. In order to ensure the safety of juveniles, staff, and visitors, periodic facility searches for contraband shall be conducted. The frequency and extent of whole facility and ground searches should be consistent with program policies and can be included during other routine inspections or activities. Searches shall be conducted by staff trained in appropriate search techniques. Searches called by the facility staff do not have to include the entire facility, but can be limited to specific areas or juveniles. Juveniles' belongings shall be disturbed no more than necessary during the search. The search shall be documented in terms of who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator will be notified and it shall be reported according to the requirements of the department. If necessary, the appropriate law enforcement agency should be notified. ()

02. Policies and Procedures Governing Searches. The program shall have policies and procedures for conducting searches of juveniles, staff, visitors, and all areas of the facility in

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order to control contraband or locate missing property. It is suggested that a sign be posted notifying visitors of the specific policy of the contract provider regarding searches. ()

03. Policies and Procedures Governing Consequences. The contract provider shall have written policies and procedures establishing the consequences for juveniles found with contraband. Juveniles should acknowledge, with their signature, that they were informed of what constitutes contraband and also the consequences for its possession. ()

04. Visitor Searches. ()

a. Prior to visitors being allowed in the facility, they shall be given rules established by the contract provider that govern their visit and advised that they may be subject to a search. They shall sign a statement of receipt of these rules and it shall be placed in the facility's file. Visitors may be required to submit packages, handbags, and briefcases for inspection by trained staff. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. ()

b. All visitor searches shall be documented in the facility log. When contraband is found, a written report shall be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. ()

264. CONTRABAND DISPOSAL.

All contraband found in the possession of juveniles, visitors, or staff shall be confiscated by staff and secured under lock and key in an area inaccessible to juveniles. Local law enforcement shall be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the facility director, in consultation with the department, to dispose of all contraband not confiscated by police. Visitors who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juveniles during the visit. These items will be returned to the visitors upon their exit from the facility. ()

265. SEARCHES OF PERSONAL ITEMS.

Routine searches of suitcases or personal items being introduced into the facility will be conducted by facility staff prior to the juvenile taking possession of his property, or when the juvenile is returning to the facility from a home pass. Search of a juvenile's belongings may be done at any time and shall be minimally intrusive. All searches shall be documented in the facility log and, if contraband is found, a written incident report must be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified. ()

266. JUVENILE PAT DOWN SEARCHES.

01. Necessity. Pat down searches of juveniles may be conducted whenever the contract provider believes it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff, juveniles, and visitors. A pat down search may be used when a juvenile is returning from a visit, or outside appointment, or activity. ()

02. Pat Down Searches. Pat down searches shall be conducted in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare. ()

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03. Documentation. All pat down searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified.

()

267. JUVENILE STRIP SEARCHES.

01. Reasonable Suspicion. Strip searches may be performed by facility staff, only after a pat down search, whenever there is reasonable suspicion to believe that weapons or contraband may be found through additional searches. Strip searches shall be authorized by the facility director or designee and conducted strictly in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare.

()

02. Documentation. All strip searches shall be documented in the facility log. A written report shall be completed when contraband is found and shall be submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency shall be notified.

()

268. DRUG SCREENS OF JUVENILES.

Drug screens may be done randomly or on an as needed basis at the contract provider's expense with the approval of the contract provider's director. A record shall be kept of all drug screens and results. A positive drug screen shall immediately be reported to the juvenile services coordinator supervising the case.

()

269. USE OF FORCE OR PHYSICAL RESTRAINTS.

Contract providers must ensure that all terms of the child care licensing rules of the Idaho Department of Health and Welfare are strictly followed, as appropriate. Additionally, contract providers must ensure that:

()

01. Minimal Use. Only the minimum level of force necessary to control a juvenile's destructive behavior shall be used.

()

02. Physical Force. Physical force, at any level, may only be used to prevent injury to the juvenile or to others and to prevent serious damage to property or escape. Physical force shall never be used as punishment.

()

03. Reporting Requirement. All instances of inappropriate use of force must be documented in an incident report and submitted to the juvenile services coordinator. These incidents must be reported to the Idaho Department of Health and Welfare, or law enforcement as required by law.

()

270. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.

A juvenile's admission into a program shall be based on an assessment of the juvenile's strengths, problems, risks and needs, and on the anticipated ability of the program to reasonably address those issues. Contract providers shall ensure that the juvenile and parent or guardian are provided an opportunity to participate in the admission process and related decisions.

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01. Accepting Referral. Upon receipt of a complete referral packet from the department, the contract provider has two (2) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form, attached to the referral packet, must be completed and signed. By accepting the referral, the contract provider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile's transportation will be made. ()

02. Declining Referral. Contract providers shall not, without just cause, deny admission to any juvenile who meets the specific admission criteria set forth in the program description. If a contract provider denies a referral, the specific reason for denial must be documented on the department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The contract provider shall then shred the referral packet. ()

03. Change in Admission Criteria. Any change in the contract provider's admission criteria must be reflected in the admission policy and requires a written amendment to the contract with the department. Temporary exceptions are covered under Section 101, of these rules. ()

271. ONGOING TREATMENT AND CASE MANAGEMENT.

01. Service Implementation Plan. Within thirty (30) calendar days of the juvenile's admission into the program, a written plan must be developed. The service implementation plan must relate services to be provided for each juvenile to the risks, needs and competencies identified in the service plan from the observation and assessment report provided by the department for that juvenile. The service implementation plan should, at a minimum, address the following areas as indicated by need: ()

- a.** Health; ()
- b.** Mental health; ()
- c.** Substance abuse; ()
- d.** Social skills; ()
- e.** Education; ()
- f.** Vocations; ()
- g.** Independent living; ()
- h.** Other special needs; and ()
- i.** Progress notes from the initial period of placement in the program. ()

02. Family Involvement. Each juvenile and, to the fullest extent possible, the family should be involved in developing the service implementation plan, and in adjusting that plan throughout the course of commitment. ()

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03. Department Assessments. Assessments provided by the department shall not be repeated by the contract provider at the time of admission into the program without specific justification provided to the regional clinical supervisor. ()

04. Service Implementation Plan Adjustments. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. ()

05. Progress Notes. Monthly progress notes must be filed recording each juvenile's progress toward completing the service implementation plan. ()

06. Education Plan. A copy of the juvenile's education plan shall be a component of the service implementation plan. This education plan shall include the juvenile's course of study (GED, secondary, post-secondary, etc.), long-term educational goals and short-term objectives, and shall comply with all state and federal laws. If the juvenile has been identified as eligible to receive services under Section 504 of the federal Rehabilitation Act of 1973 (504) or the federal Individuals with Disabilities Education Act (IDEA), a copy of the Individualized Educational Plan (IEP), and supporting documentation shall be available for review by the department and the Idaho Department of Education. The education plan shall be submitted yearly to the juvenile correctional center in Nampa while the education progress reports shall be submitted every other month. ()

07. Progress Report. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 271.01, of these rules, should also be referenced in the progress report. Each progress report should also note any changes or further development of the reintegration plan and should detail the level of involvement of the parent or guardian in treatment. A written progress report must be submitted to the juvenile services coordinator at least every two (2) months. ()

08. Report Distribution. Copies of the progress report shall be distributed by the contract provider to the juvenile and juvenile services coordinator. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for some well documented reason. ()

a. The juvenile must always be aware of the status of his progress within the program and what remains to be done to complete the program. ()

b. Programs must provide an educational program that is tailored to each juvenile's educational level, abilities, problems, and special needs, and improves educational performance and vocational skills while in care. ()

c. Each juvenile should have a written individual learning plan for education based

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upon assessed academic, emotional, developmental and behavioral needs, and competencies. Juveniles determined to be eligible for special education must be provided these services. The provision of these services and the progress made academically must be documented regularly in a separate educational file. Juveniles qualifying for special education must have a valid IEP available for review by the department and the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the student's permanent school records that are maintained at the juvenile correctional center in Nampa. ()

d. Contract providers must assure that the basic norms and expectations of the program are clearly presented to juveniles and that they are understood. Any points, levels or phases that are a fundamental part of a program must be clearly understood by juveniles in the program. Each juvenile's progress, or lack of progress, through these levels must be clearly documented and must be related to documented behavior. Recommendations for release from department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. ()

272. PASSES.

Prior to granting a day pass or a home pass to a juvenile, the contract provider shall contact the juvenile probation officer and the juvenile services coordinator to ensure that neither the court nor the department has placed restrictions on the juvenile's pass privileges. All requests for passes must be approved by the juvenile services coordinator. Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. ()

01. Potential Risk to Public Safety. All passes for juveniles assigned to residential facilities should be considered as an integral part of the service implementation plan. However, in all cases, the potential risk to public safety and adequacy of home supervision shall be considered prior to allowing a juvenile to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juveniles. Contract providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The department's Off-Campus Pass form may be used for this purpose. If the department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision, the pass must contain at least the following information: ()

- a.** The juvenile's name and date of birth; ()
- b.** The name, address and telephone number of the individual assuming responsibility;()
- c.** Authorized days, dates and times for the pass, including the specific date and time of departure and of return; ()

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d. A complete listing of the anticipated locations and activities in which the juvenile is expected to be involved; ()

e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; ()

f. A complete listing of the activities required during the pass; ()

g. Specific stipulations prohibiting: ()

i. The use of alcohol, tobacco, and drugs; ()

ii. Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; ()

iii. Participation in sexual relations of any kind; ()

iv. Possession of any kind of firearm or weapon; ()

v. Any violation of the terms of probation; and ()

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. ()

02. Eligibility. A juvenile must be in placement a minimum of thirty (30) calendar days before he is eligible for any pass. Any exceptions due to extenuating circumstances must be approved by the juvenile services coordinator. ()

03. Frequency. Frequency of passes shall be consistent with the terms of the juvenile's service implementation plan and contract provider's contract with the department. ()

04. Documentation. Documentation of the exact date and time of the juvenile's departure from the program for a pass, and his return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ()

273. GROUP ACTIVITIES OFF FACILITY GROUNDS.

An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay, and why the activity is being planned must be submitted to the juvenile services coordinator at least five (5) business days prior to the activity. The activity plan must identify the specific risk elements associated with the activity and provide a safety plan for each of those risk elements. Routine, low risk activities within the local community adjacent to the facility do not require prior notice, and are to be conducted at the discretion of and under the responsibility of the contract provider. ()

01. Recreational Activities. A pass authorizing the participation of juveniles in outdoor recreational or work activities with an increased risk, such as overnight trips, must be

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signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves rafting, boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the clinical services administrator.

()

02. Staff Requirements.

()

a. A basic first aid kit and current Red Cross First Aid Manual will be taken with the group. At least one (1) person certified in first aid and CPR shall accompany the group.

()

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in basic rescue and water safety, water safety instruction, or Red Cross life saving. All juveniles involved in boating or rafting activities must wear an approved personal flotation device.

()

c. A staff to juvenile ratio of one to six (1 to 6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of juveniles below age twelve (12), are some reasons to consider additional staff.

()

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan.

()

03. Consent Forms. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subsection 273.01 of these rules. Each juvenile must have prior written consent from a parent or guardian, if available, and the clinical services administrator. Consent shall include:

()

a. Permission for the juvenile's participation;

()

b. Acknowledgement of planned activities; and

()

c. Permission for the contract provider to seek or administer necessary medical attention in an emergency.

()

04. Consumption. There will be no consumption of alcoholic beverages or illicit drugs by staff or juveniles or volunteers while engaged in any agency-sponsored trip or activity.

()

274. ACTIVITY REPORTS.

At the conclusion of each pass or group activity, the contract provider shall determine whether any problems occurred or other significant positive or negative events transpired while the juvenile was on pass. This information shall be documented in the juvenile's file. Any unusual occurrences shall be reported to the juvenile services coordinator and documented on an incident report. A drug screening urinalysis may be conducted on each returning juvenile, at the expense of the contract provider, and the results of that exam reported to the juvenile services coordinator.

()

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275. OUT-OF-STATE TRAVEL.

When a contract provider is planning an out-of-state trip for any of its juveniles, the facility administrator shall obtain prior written authorization from the regional clinical supervisor or designee. The necessary sequence of action and approval is as follows: ()

01. Notification. The contract provider shall notify the juvenile services coordinator in writing two (2) weeks in advance of the scheduled trip with the following: ()

- a.** Dates of the scheduled trip; ()
- b.** Location of the trip; ()
- c.** Purpose of the trip; ()
- d.** Transportation arrangements; ()
- e.** Where the juvenile will be staying if overnight accommodations are required (address and phone number); and ()
- f.** Who is going, such as juvenile and name and position of staff. ()

02. Prior Approval. The administrator shall obtain all necessary approvals prior to authorizing travel. ()

276. PLANNING FOR REINTEGRATION.

01. Programs. Programs must promote continuity in programming and services for juveniles after they leave the program by assuring that essential information is forwarded to those agencies that will be providing services to the juveniles, and working closely with department staff throughout placement to plan for reintegration. ()

02. Approval. Reintegration, by release from department custody or transfer, shall not take place without the involvement of the department's assigned juvenile services coordinator, and the approval in writing of the regional clinical supervisor and regional superintendent. ()

03. Department Concurrence. Preparation for reintegration of a juvenile begins with the initial development of a service plan and is an ongoing process throughout the juvenile's program. Criteria for the juvenile's release from department custody or transfer shall be explained to him as soon as possible after admission to a program. ()

04. Reintegration Plan. Within the first thirty (30) calendar days after a juvenile is admitted to a program, a written reintegration plan shall be formulated as one (1) part of the overall service implementation plan. The reintegration plan should include: ()

- a.** The juvenile's anticipated length of stay; ()
- b.** Specific program goals to be achieved while in the program; ()

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- c. Living arrangements upon release from department custody or transfer; ()
- d. Resources necessary for the juvenile to continue to meet treatment goals in the community;()
- e. Resources necessary for the juvenile to continue an appropriate education; and ()
- f. Terms of continued probation to the extent that they are known and addressed in progress reports. ()

05. Written Recommendation. Contract providers shall provide to the juvenile services coordinator a written recommendation for release from department custody or transfer at least thirty (30) calendar days prior to the juvenile's anticipated completion of the program. This recommendation shall include: ()

- a. A current summary of the juvenile's progress; ()
- b. A summary of the efforts to reach the juvenile's goals and objectives, including education; ()
- c. Any unresolved goals or objectives; ()
- d. Reinforcement goals and objectives for parents, guardians, or reintegration workers; ()
- e. Recommendation for continuing services, including education, in the home community; ()
- f. The prognosis; and ()
- g. The current address of the recommended custodian. ()

06. Reintegration Staffing. The juvenile services coordinator shall convene a reintegration staffing which will include the juvenile's probation officer, the contract provider, the juvenile's parent or guardian, an education representative, and the juvenile. Based upon the results of that staffing, the department will make the final decision regarding transfer or release from department custody. At a minimum, the reintegration staffing must consider and, to the extent possible, solidify plans to address any ongoing health, mental health, substance abuse, social skills, education, vocation, independent living, and other special needs. ()

07. Check-Out Procedures. Prior to the release from department custody or transfer, the contract provider must have completed a Contract Provider Juvenile Check-Out Form supplied by the department. The form shall be dated, signed by the juvenile, and forwarded to the juvenile services coordinator on the actual date that the juvenile leaves the program. ()

- a. The contract provider shall immediately provide the juvenile's medication,

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prescriptions and Medicaid card, if applicable, to the individual or agency authorized to transport the juvenile. ()

b. Within two (2) business days after a juvenile leaves the facility or program, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile attended while in the program shall be sent to the juvenile correctional center in Nampa. ()

c. Within two (2) business days after a juvenile leaves the facility or program, the contract provider shall send a report showing the juvenile's total hours, credits, and associated grades directly to the juvenile correctional center in Nampa. The contract provider shall maintain adequate documentation to support the submitted education reports. Timely receipt of these records is critical to assist the transition of the juvenile to another educational facility. ()

08. Termination Prior to Completion. ()

a. When a contract provider believes a juvenile is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing with the regional clinical supervisor and, if necessary, the clinical services administrator, may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the contract provider to avoid the necessity of making another placement. The contract provider must document these efforts at problem solving. The department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the contract provider. The contract provider can request transfer of a juvenile in the following circumstances: ()

i. A pattern of documented behavior clearly indicating a lack of progress; or ()

ii. Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. ()

b. In matters involving life, health, and safety of any juvenile in department custody, the department shall remove the juvenile immediately. ()

c. A comprehensive summary shall include, at a minimum, a report on progress or lack of progress on all service implementation plan areas, and recommendations for follow-up. The summary shall be forwarded to the juvenile services coordinator within twenty-four (24) hours of release from department custody or transfer prior to program completion. ()

d. In cases of all releases from department custody and transfers, the contract provider shall send any available dental or medical records to the privacy officer at the nearest department regional facility. All school records available from school(s) the juvenile attended while in the program shall be sent to the juvenile correctional center in Nampa. ()

e. The summary shall be forwarded to the department within five (5) business days of the date of transfer or release from department custody, if the juvenile has completed the program. ()

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277. RESERVATION OF PROGRAM SLOTS.

When a program slot is to be reserved, the department shall contact the contract provider and request that the slot be reserved. Unless the clinical services administrator or designee gives specific approval, the maximum time for which a program slot may be reserved and the contract provider continue to receive payment is forty-eight (48) consecutive hours. ()

278. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. ()

a. All counseling services provided to juveniles, whether individual, group or family, must be performed by a clinician, counselor, or therapist as defined in these rules. ()

b. Counseling should be planned and goal directed. ()

c. Notes must be written for each service provided. The notes must be dated, clearly labeled either individual, group or family counseling, and each entry must be signed by the clinician, counselor, or therapist performing the service. ()

d. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment. ()

e. Counseling should be reality oriented and directed toward helping juveniles understand and solve specific problems; discontinue inappropriate, damaging, destructive or dangerous behaviors; and fulfill individual needs. ()

f. The minimum standard for the frequency of counseling services shall be specified in the comprehensive program description attached to the contract with the department. ()

g. There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services. ()

h. Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. ()

i. Programs must provide crisis intervention counseling if warranted by the assessment and circumstances. ()

j. The contract provider must furnish adequate space for conducting private interviews and counseling sessions at the facility. ()

k. Family counseling services must be available as a part of the juvenile's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile's removal from his home and the issue of his eventual reintegration back into the family unit. A statement of goals to be achieved or worked

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toward by the juvenile and his family should be part of the service implementation plan. ()

02. Substance Abuse Treatment Services. As a minimum standard, programs must provide substance abuse education for all juveniles, and substance abuse treatment services as determined by assessment and indicated in the service implementation plan. Substance abuse treatment services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years experience in the substance abuse field. Juveniles receiving substance abuse treatment services shall have access to in-house or community Alcoholics Anonymous and Narcotics Anonymous meetings, or an orientation to the twelve-step program at the appropriate point in his treatment, or an introduction to a community intervention program if a twelve-step program is not appropriate for him. Notes documenting the service provided must be dated, clearly labeled "substance abuse treatment services," and each entry must be signed by the counselor performing the service. ()

03. Suicide Prevention and Risk Management. In addition to the policy required in Paragraph 261.01.e., of this rule, contract providers must be able to demonstrate that they: ()

a. Train staff regularly to identify, document and appropriately respond to behavior that may indicate a risk of suicide; ()

b. Utilize medical or other staff trained by a mental health professional to review history, and interview and observe juveniles new to the program in order to complete suicide risk screening within two (2) hours of admission; ()

c. Utilize a mental health professional to complete a suicide risk assessment on a juvenile who has been identified by staff as presenting a risk of suicide; ()

d. Utilize mental health professionals to help develop a safety plan for each juvenile identified as presenting a risk for suicide, and to determine when that risk is reduced enough to reduce or terminate suicide precautions; and ()

e. Prohibit the use of separation and isolation of juveniles identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided and that all juveniles in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. ()

04. Social Skills Training Including Relapse Prevention Skills. Programs must assess each juvenile's social skills and document specific services provided to improve functioning in this area. Additionally, every juvenile must have developed a written relapse prevention plan prior to successfully completing the program. ()

05. Health Services. Programs must be able to demonstrate compliance with the required policy concerning access to routine and emergency health and mental health care and, in addition, should provide a basic health curriculum for all juveniles. Contract providers must provide and document a health and suicide risk screening of each juvenile within two (2) hours of admission into the program. ()

06. Vocational and Prevocational Services. Programs must be able to demonstrate

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that each juvenile's vocational interests and needs have been assessed and an appropriate level of services has been provided. These services may range from a specific vocational skills curriculum, offered on site or in the community, to a prevocational skills component, which at a minimum, involves juveniles in assessing their vocational interests and strengths. ()

07. Basic Life Skills and Independent Living. Programs must be able to demonstrate that juveniles are taught basic life skills and that age-appropriate juveniles are involved in independent living skills consistent with their age and needs. This program should include, at a minimum, instruction in: ()

- a.** Hygiene and grooming skills; ()
- b.** Laundry and maintenance of clothing; ()
- c.** Appropriate social skills; ()
- d.** Housekeeping; ()
- e.** Use of recreation and leisure time; ()
- f.** Use of community resources; ()
- g.** Money management; ()
- h.** Use of public transportation, where available; ()
- i.** Budgeting and shopping; ()
- j.** Cooking; ()
- k.** Punctuality, attendance and other employment-related matters; and ()
- l.** Vocational planning and job finding skills. ()

08. Recreational Services. Programs should have a written plan for providing recreational services based on individual needs, interests, and functional levels of the population served. ()

a. The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of table games and other activities that encourage both solitary entertainment and small group interaction. An appropriately furnished area should be designated inside the facility for leisure activities. ()

b. Programs should have staff educated and experienced in recreational programs to ensure good planning, organizing, supervision, use of facility, and community activities. Recreational activities considered part of the service implementation plan must be funded by the contract provider. The use of community recreational resources should be maximized, as long as community safety is assured. The contract provider must arrange for the transportation and

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provide the supervision required for any usage of community recreational resources. No juvenile shall be required to pay to participate in recreational activities made available through the program. ()

279. EMPLOYMENT OF JUVENILES.

01. Employment. If juvenile employment away from the program site is a part of the program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juveniles locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The contract provider shall make periodic checks on the job-site to ensure the juvenile is working under acceptable conditions. The juvenile's employer shall be consulted regularly by the contract provider concerning the juvenile's work abilities and performance on the job-site. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juveniles in the program. Contract providers must make every reasonable effort to assure that each juvenile's transportation to and from a job-site is safe. ()

02. Employment Opportunities. Every reasonable effort shall be made to select employment opportunities that are consistent with the individual interests of the juvenile to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment. Reasonable effort must be made to provide juveniles with the highest paying job possible. Income earned by a juvenile shall be handled consistent with Subsection 212.04, of these rules. ()

280. RELIGIOUS SERVICES.

Programs must ensure that attendance at religious services is voluntary. No juvenile shall be required to attend religious services, and no juvenile shall be penalized for not attending nor given privileges for certain attendance. ()

01. Voluntary Practice. All juveniles must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional or physical well-being of the juveniles in the facility. ()

02. Attendance. Juveniles may be permitted to attend religious services of their choice in the community as long as community safety is ensured. ()

03. Transportation. Programs must, when reasonably possible, arrange transportation for those juveniles who desire to take part in religious activities of their choice in the community. ()

04. Risk to Community. If the juvenile cannot attend religious services in the community because staff has reason to believe he would attempt to escape, or otherwise present a risk to the safety of the community, the contract provider must make every reasonable effort to ensure that he has the opportunity to participate in religious services of his choice at the facility. ()

05. Visits. Juveniles shall be permitted to receive visits from representatives of their

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respective faiths.

()

06. Minor Juveniles. When the juvenile is a minor, the contract provider shall make reasonable effort to comply with the wishes of the legally responsible person with regard to religious observances. A program's staff schedule shall not encourage or discourage participation in general or specific religious services or activities.

()

281. -- 299. (RESERVED).

300. EDUCATION SERVICES.

01. Appropriate Services. The contract provider shall ensure that each juvenile is given appropriate educational and vocational services that are consistent with the juvenile's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Contract providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juveniles to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided by contract providers must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the No Child Left Behind Act (NCLB), the Individuals with Disabilities Education Act (IDEA), the Family Educational Rights and Privacy Act (FERPA), and Section 504, Rehabilitation Act of 1973 (504).

()

02. Mandatory Enrollment. Contract providers must ensure that all juveniles involved in their programs who are of mandatory school age, or who have not yet obtained a GED or high school diploma, are enrolled in a school system or in a program approved and certified by the Idaho Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service shall be provided in accordance with the service implementation plan.

()

03. Cooperative Relationships. Contract providers may provide educational services through a cooperative agreement with the local education agency (LEA) or through an in-house educational program administered by the contract provider. If an LEA provides the services, it is expected that the contract provider will enter into a written agreement with a local education agency that clearly defines the services to be provided. The written agreement must include, at a minimum, all of the following:

()

- a.** Level of participation in reintegration planning for each juvenile; ()
- b.** That grades will be submitted, as required in Subsection 300.09 of these rules, within twenty-four (24) hours of transfer or release from department custody; ()
- c.** Curriculum for special education services, if appropriate; ()

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- d.** A plan for the provision of state required testing; and ()
- e.** Types of services that will be provided beyond the established limits of the regular school year for that school district. ()

04. Costs of Educational Services. If an LEA agreement is developed, the Idaho Department of Education will flow education funds to the LEA in a manner consistent with current legislative funding mandates. A copy of the memorandum of understanding between the contract provider and the LEA must be provided to the department, and the source of funds to cover the costs for educational services clearly accounted for in the budget attached to the program description. If the contract provider elects to provide the services in-house, the cost of educational services will be included in the daily contract rate. The contract provider will not be eligible to receive educational funding through both of these sources. ()

05. Accreditation Requirements. Each contract provider serving juveniles who have been committed to the department will have, or contract with, an education program that will meet the accreditation standards of the Northwest Association of Schools and of Colleges and Universities or the Idaho Department of Education. ()

06. Educational Assessment. Federal and state laws mandate that juveniles be provided with an appropriate education. Contract providers are responsible for providing an educational track which will best serve the needs of each juvenile, as determined by the assessment provided by the department through the observation and assessment process, or as determined by an assessment completed by a local school district. A copy of the relevant assessment and related current and valid educational plan, as well as all supporting documentation for each juvenile, must be maintained in a separate file and must be available to the department and to the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the department's education records manager within ten (10) business days or less of its completion for inclusion in the student's permanent school records that are maintained at the juvenile correctional center in Nampa. ()

a. Contract providers are responsible for ongoing, yearly reassessment of each juvenile's progress within the education program as well as documenting and reporting that progress. This responsibility extends to completing a reassessment just prior to release from department custody or transfer, and reporting academic gain both for individual juveniles as well as composite data for the education program overall. ()

b. Consistent with statewide educational standards, contract providers are responsible for assuring that each juvenile is tested twice annually using the Idaho Standards Achievement Test (ISAT). Contract providers must also administer the Direct Math and Writing Assessments or other tests mandated by the administrative rules of the Idaho Board of Education. Any fees associated with the testing services will be the responsibility of the contract provider. ()

07. GED and High School Equivalency (HSE) Eligibility. Contract providers must assure that General Educational Development tests (GED) will be administered to students meeting the criteria established in the administrative rules of the Idaho Board of Education for school districts. Contract providers must assist students who successfully complete GED testing with a minimum standard average score of four hundred fifty (450) and earn a credit in United

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States Government to apply for an Idaho High School Equivalency Certificate (HSE) from the Idaho Department of Education. All GED testing and HSE application fees will be paid by the contract provider. ()

08. Special Education Services. ()

a. The contract provider shall ensure that the special educational needs of juveniles are addressed. The contract provider's in-house program or cooperating LEA program must comply with the federal 504 and the IDEA, as well as any other applicable state or federal laws. Under no circumstances shall the contract provider or its teaching staff make modifications in the juvenile's 504 or IDEA educational program without conducting a Child Study Team meeting in consultation with the department's educational coordinator or designee. ()

b. Contract providers must make every reasonable effort and thoroughly document all efforts to contact parents or guardians of juveniles identified as eligible for special education. If it is not possible to involve the natural parents or guardians, a surrogate parent must be appointed by the agency providing special educational services. This surrogate cannot be the director or other employee of an agency, institution, or community-based residential facility who is involved in providing care or education to a juvenile, or an employee of a state agency or agency volunteer, such as caseworker, social worker, or court-appointed special advocate who has been appointed by the state to provide for the welfare of the student. A surrogate parent is used only for special educational requirements and has no other legal authority. ()

09. Standards for Instructional Time. Contract providers must assure that the school day is consistent with at least the minimum standard established for high schools by the Northwest Association of Schools and of Colleges and Universities. The length of the school day will further meet all requirements established by state and federal laws, regulations, and accreditation standards. Contract providers must provide an appropriate educational or vocational program for each juvenile for twelve (12) months of the year. At a minimum, this involves four (4) hours per day, five (5) days per week throughout the full calendar year. Juveniles involved in any disciplinary process shall not be denied their right to education and other related services. If security or other related concerns are present that may prohibit a juvenile's participation in educational programming, an educational plan review will be completed and documented in an incident report. If the juvenile is eligible for services under IDEA or 504, a Child Study Team will meet to make a determination as to whether or not the behavior is a result of the juvenile's handicap. All due process procedures will be followed according to the administrative rules for special education. ()

10. Educational Records and Confidentiality. ()

a. Educational records shall be maintained by the contract provider at all times in accordance with FERPA. At a minimum, the following information shall be included in the record: ()

i. Subjects taken; ()

ii. Grades by subject and explanation of the grading system; ()

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- iii. Units of credit with explanation; ()
- iv. Attendance records; and ()
- v. Any standardized test scores. ()

b. Reports of the juvenile's educational progress shall be provided in the manner and within the time periods specified in these rules. At a minimum, this requires the documentation of monthly progress notes and a written progress report every second month. ()

c. Contract providers must ensure that juvenile educational files are consistently maintained to ensure compliance with FERPA. ()

d. When a juvenile is released from department custody or transferred, the permanent education file shall be updated by the department's education records technician. The contract provider will provide final withdrawal grades and credits within twenty-four (24) hours or next working day after the juvenile is released from department custody or transferred. Working educational files shall be returned to the juvenile correctional center in Nampa within ten (10) business days of the juvenile's release from department custody or transfer. ()

301. -- 319. (RESERVED).

320. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

Confidentiality of personal health information of each juvenile shall be maintained in accordance with the Privacy Regulations promulgated under HIPAA of 1996 or, if more stringent, the laws of the state of Idaho. Compliance with these regulations is the responsibility of the contract provider. Staff shall be provided information about a juvenile's medical condition only when that knowledge is necessary for the performance of their job duties. ()

01. Privacy Officer. The contract provider shall appoint a privacy officer to oversee that the control and maintenance of all juvenile health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ()

02. Separate Records. All juvenile medical and health records shall be kept in files that are physically separated from other juvenile files and information, and under a system of security against unauthorized access. ()

321. PROVISION OF MEDICAL SERVICES.

01. Medical Care. Each juvenile shall be provided with medical, dental, optical, mental health, emergency or any other related health services while in the contract provider's care. Each contract provider shall have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juveniles with professional and qualified physical or mental health services, including medications. Health, mental health, and suicide risk screening must be provided within two (2) hours of a juvenile's admission to a program. Comprehensive and professional health and mental health assessments must be provided by the contract provider within thirty (30) calendar days of admission, unless these are provided by the department. ()

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PENDING RULE (Chapter Rewrite)

02. Medical Consent. As part of the admission process, the contract provider must have a copy of the department's Release of Information and Consent form signed by a juvenile's parent, guardian, or committing authority. The consent form shall be filed in the juvenile's medical and case files maintained by the contract provider. ()

03. Emergency Medical Treatment. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the department, reasonable efforts must be made to obtain the consent of the parent or guardian. The signature of only one (1) parent or guardian is sufficient to form consent or authorization. Should the parent or guardian not be available or refuses to sign, the authorization may be signed by the department's regional R.N. or designee. This does not restrict the contract provider from taking action in life and death situations. ()

04. Reimbursement Sources. The contract provider shall utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile. The contract provider shall not seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the contract provider pursuant to its contract with the department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the department's regional R.N. or designee, will be at the expense of the contract provider. ()

322. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

01. Compliance With Child Care Licensing Rules. Admission and annual health services shall be provided to juveniles in accordance with the child care licensing rules of the Idaho Department of Health and Welfare, unless otherwise provided in these rules. ()

02. Prior Approval. No prior approval or review from the department's regional R.N. is required for admission and annual health services. Examples of admission and annual health services for which no prior approval or review is required are: ()

a. Admission physical exams, including STD exams and treatment, as well as PAP smears; ()

b. Admission dental exams, including x-rays (no Panorex), and cleanings (no sealants); ()

c. Admission eye exams and glasses, if needed; ()

d. Annual physical exams, including STD exams and treatment, PAP smears; ()

e. Annual dental exams with x-rays (no Panorex), and cleanings; and ()

f. Annual eye exams, if needed, and new glasses only if needed. ()

03. Medical Records. Any time a juvenile receives treatment under this section or for

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any similar service, the contract provider shall retain the original medical record regarding treatment and send a copy to the department's regional R.N. immediately to ensure that accurate and current health records are maintained for each juvenile. ()

323. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.

The contract provider shall immediately report critical health incidents according to Subsection 262.02, of these rules. ()

324. COMMUNICABLE DISEASES.

01. Policies. ()

a. The contract provider shall establish policies and procedures for serving juveniles with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of communicable diseases, provide an orientation for new staff and juveniles concerning the diseases, and ongoing education for staff and juveniles regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a qualified health professional for juveniles diagnosed with a communicable disease. ()

b. The contract provider shall comply with the child care licensing rules of the Idaho Department of Health and Welfare regarding universal precautions. ()

02. HIV Testing. In accordance with law, a juvenile over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ()

03. Examinations. Examinations shall be performed on any juvenile by medical professionals for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juveniles will be tested and, if indicated, treated. ()

04. Confidentiality. Confidentiality shall be maintained. ()

325. PREGNANCY.

01. Individual Treatment Plan. Within the individual treatment plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan shall be based on the orders of the juvenile's community obstetric physician and shall include special care, location for delivery, regular medical check-ups, and special dietary and recreational needs. A copy of the individual treatment plan will be sent to the department's regional R.N. ()

02. Parenting Classes. Parenting classes shall be an integral part of the individual treatment plan for all pregnant juvenile females. This service should also be offered as a priority to juvenile males in department custody who are already fathers or whose spouse or girlfriend is expecting a child. ()

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03. Medicaid Reimbursement. Medical services relating to pregnancy shall be provided by a physician and hospital accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile's family. ()

04. Infant Care. When an infant is delivered and the mother continues in department custody, the infant shall be placed with an appropriate family member or in the temporary care of the Family and Children Services Division of the Idaho Department of Health and Welfare, subject to any necessary court approval. At no time shall the infant remain in the contract provider's facility. ()

326. REFUSAL OF TREATMENT.

01. Refusal of Recommended Treatment by Physician. If a juvenile chooses to refuse treatment or medication recommended by a physician, the juvenile must sign a detailed statement refusing this care. A contract provider staff member must witness the juvenile's signature. This refusal form will be filed in the juvenile's medical record. ()

02. Where Refusal Poses Significant Risk. If a juvenile refuses a treatment or medication for a condition which poses a significant risk of death or permanent physical impairment, the contract provider shall issue its approval for the immediate administration of the medical treatment or medication in accordance with standard practice. If danger to the juvenile is not imminent, the contract provider shall contact the clinical services administrator and notify the department's regional R.N. of the juvenile's refusal. ()

327. USE OF MEDICATIONS.

A program shall have written policies and procedures governing the use and administration of medication to juveniles. Policies shall conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare. If initiating or modifying any medication, the department's regional R.N. must be notified. ()

01. Psychotropic Medication. When psychotropic medication has been prescribed to a juvenile by a licensed physician, nurse practitioner, or physician's assistant, the contract provider shall notify the department's regional R.N., the juvenile's parent or guardian, the juvenile services coordinator, and the juvenile probation officer within three (3) business days. The notice shall include: ()

a. The name of the prescribed medication; and ()

b. The name and phone number of the doctor, nurse practitioner, or physician's assistant, who can explain the reason the medication was prescribed and any possible side effects. ()

02. Reason for Administering Medication. The contract provider shall have staff available to explain to a parent or guardian, the juvenile services coordinator, and the department's regional R.N., the reason for making a referral to a physician who has prescribed psychotropic medication. The contract provider shall assure that any physician prescribing psychotropic medication is willing to discuss with a parent or guardian and department staff the reason the psychotropic medication was prescribed and the potential side effects of the

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medication.

()

328. SUICIDE PRECAUTIONS.

All contract providers must have a written plan for responding to juveniles who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting appropriate health authorities and the department, and a plan of direct supervision of a juvenile until a suicide crisis has ended. A suicide risk screening must be completed on every juvenile within two (2) hours of admission.

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329. FIRST AID KITS.

Each contract provider shall maintain first aid kits in the manner required by the child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Standards for Child Care Licensing". The first aid kits shall be kept locked and shall be placed in areas of the facility readily accessible to staff.

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330. -- 999. (RESERVED).

House Judiciary Rules Committee

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-520(1)(q), 20-532, and 20-504(11), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 118 and 120.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-520(1)(q), 20-532, and 20-504(11), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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DEPARTMENT OF JUVENILE CORRECTIONS
Rules of the Custody Review Board**Docket No. 05-0103-0401**
PENDING RULE

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amending Sections 101 and 201 to clarify that juveniles must be seen by the Custody Review Board (CRB), not just referred, prior to age nineteen (19). Also, if the CRB sees a juvenile but does not retain him, the juvenile may be kept in custody for no more than forty-five (45) days after turning nineteen (19) for transition plans to be finalized.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because stakeholder input was used in clarification of this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 North 10th St., 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0285
208-334-5100 ext. 384
208-334-5120 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

101. POWERS AND DUTIES.

01. Review. The Custody Review Board is empowered by Sections 20-520(1)(q) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the department whose cases have been referred to the board according to Section 201 of these rules. (5-3-03)

02. Board Opinions. After conducting its review, the Custody Review Board shall advise the department's director whether, in their opinion, the juvenile before them needs an extended time in custody to address accountability, community protection, and competency. (5-3-03)

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DEPARTMENT OF JUVENILE CORRECTIONS Rules of the Custody Review Board

Docket No. 05-0103-0401
PENDING RULE

03. Indeterminate Sentence Remains. The Custody Review Board cannot direct the placement, treatment or final release decision of a juvenile in the department's custody, and any determination by the board that extended time in custody is needed by a juvenile shall not create a determinate sentence of any kind. (5-3-03)

04. Release Date for Juveniles. If a juvenile has appeared before the Custody Review Board and the board has concluded that he not be retained in custody, the director shall set a release date for the juvenile, as follows: ()

a. If a juvenile appears before the board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the department may retain the juvenile long enough to finalize those plans, but not to exceed forty-five (45) days after the juvenile's nineteenth birthday. ()

b. In all other cases, the department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, but not to exceed forty-five (45) days after the board's opinion has been rendered. ()

(BREAK IN CONTINUITY OF SECTIONS)

201. REFERRAL OF CASES TO THE BOARD.

The Custody Review Board shall review cases referred to it and will advise the director whether, in its opinion, extended time in custody is necessary for a juvenile to address competency, accountability and community protection. (5-3-03)

01. Cases Eligible for Referral. A juvenile's case is eligible for referral to the board ~~only if one (1) of the following situations exists~~ in either of the following circumstances: (5-3-03)()

a. If ~~the~~ juvenile is ~~within at least no more than~~ six (6) months ~~of from~~ his nineteenth birthday ~~at the time of referral~~, and one (1) or more members of the juvenile's case management team, believes that the juvenile ~~may~~ needs extended time in custody beyond that juvenile's nineteenth birthday; or (5-3-03)()

b. If ~~the~~ juvenile is past age nineteen (19), ~~is~~ has already been retained in the department's custody based on an earlier opinion of the Custody Review Board, and one (1) or more members of a juvenile's case management team, the Custody Review Board, or the director of the department, believes that an additional case review is in the best interest of the juvenile or others affected. (5-3-03)()

02. Juvenile Has Not Appeared Before the Custody Review Board. Any juvenile who has not appeared before the Custody Review Board in person or by video conference prior to the date of his nineteenth birthday shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date shall not exceed forty-five (45) days after the juvenile's nineteenth birthday. ()

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023. Hearing Schedules. Once a case is referred, the board shall set a date for the review hearing. Unless the board decides otherwise, no case will be heard more often than every six (6) months. (5-3-03)

034. Written Submissions. All written documents and letters to be considered at a particular hearing must be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the board members present. Documents may include: (5-3-03)

- a.** Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (5-3-03)
- b.** Report on original offenses leading to commitment plus order for commitment and orders of judgment; (5-3-03)
- c.** Written recommendations from each member of the treatment team; (5-3-03)
- d.** Polygraph results and written conclusions and recommendations from the professionals administering these tests; (5-3-03)
- e.** Psychosocial or psychosexual evaluations; (5-3-03)
- f.** Victim's written statement; (5-3-03)
- g.** Juvenile's written statement; (5-3-03)
- h.** Initial classification; (5-3-03)
- i.** Custody level assessment at case review; and (5-3-03)
- j.** Any other pertinent information. (5-3-03)

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IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.04 - UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES

DOCKET NO. 05-0104-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(11) and 20-504(14), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 121 through 125.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 20-504(11) and 20-504(14), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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DEPARTMENT OF JUVENILE CORRECTIONS
Standards for Juvenile Probation Services

Docket No. 05-0104-0401
PENDING RULE (New Chapter)

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: To create a new chapter to implement and establish uniform standards for county juvenile probation services, pursuant to Section 20-504(14), Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because meetings were held with stakeholders.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

Nancy Bishop, Deputy Attorney General
Idaho Department of Juvenile Corrections
400 North 10th St. 2nd Floor
P.O. Box 83720, Boise, Idaho 83720-0285
208-334-5100 ext. 384, 208-334-5120

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 05, TITLE 01, CHAPTER 04

05.01.04 - UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES

000. LEGAL AUTHORITY.

01. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. ()

02. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the Idaho Department of Juvenile Corrections, in cooperation with the courts and the counties, shall

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DEPARTMENT OF JUVENILE CORRECTIONS Standards for Juvenile Probation Services

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PENDING RULE (New Chapter)**

establish uniform standards for county juvenile probation services. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.04, “Uniform Standards for Juvenile Probation Services”. ()

02. Scope. These rules are established to ensure that all county juvenile probation services operate under consistent standards based on the principles of accountability, community protection, and competency development. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements, which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Idaho Department of Juvenile Corrections, 400 N. 10th St., 2nd Floor, P.O. Box 83720, Boise, Idaho 83720-0285. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Idaho Department of Juvenile Corrections. The Idaho Department of Juvenile Corrections is located at 400 N. 10th St., 2nd Floor, Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. Mail regarding the Idaho Department of Juvenile Corrections’ rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. The facsimile number of the office is (208) 334-5120. ()

02. Idaho State Police, Peace Officer Standards and Training. The principal place of business of the Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Idaho Department of Juvenile Corrections are subject to these rules and the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

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01. Assessment. The process of acquiring an understanding of a problem, what causes it, and what can be changed to minimize or resolve it. ()

02. Case Plan. A procedure to plan, seek, and monitor services from different agencies and staff on behalf of the juvenile, with attention given to accountability, community protection, and competency development. ()

03. Discretionary or Unscheduled Detention Days. Time, in days, placed on hold for a juvenile to be used at the discretion of the court in accordance with the agency's policy and procedure. ()

04. Diversion Agreements. A contract entered into by the juvenile and his parents with the probation department, utilizing community resources, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court. ()

05. Idaho Juvenile Risk Assessment. Document that was developed and approved as a statewide risk assessment, measuring the juvenile's life areas to determine his risk to the community and risk to re-offend. ()

06. Juvenile Probation Department. Any public or private agency administered by or contracted with the court, made up of one (1) or more staff to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. ()

07. Juvenile Probation Officer. An employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. ()

08. Social History. An in-depth description and assessment of the current and past juvenile situation, including but not limited to family history and dynamics, medical information, previous criminal information as well as family criminal history, educational and employment information, victim information, developed into a formal document to present to the court for review, noting the juvenile probation officer may or may not offer recommendation regarding supervision. ()

09. Use of Force. Physical force used in instances of justifiable self-defense, protection of others or protection of property. ()

010. -- 099. (RESERVED).

100. STANDARDS FOR JUVENILE PROBATION SERVICES.

Each juvenile probation department shall have policies and procedures regarding the following: ()

01. Services. Services provided to juveniles and their families supporting the "Balanced Approach Model". The elements of the "Balanced Approach Model" include

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DEPARTMENT OF JUVENILE CORRECTIONS Standards for Juvenile Probation Services

**Docket No. 05-0104-0401
PENDING RULE (New Chapter)**

accountability, community protection, and competency development. ()

02. Assessments, Social Histories, and Case Plans. How to conduct assessments of juveniles under probation supervision as well as the preparation of social histories and case plans, including that all assessments, social histories, and case plans be maintained in some form of retrievable record; written, electronic, or as otherwise appropriate. ()

03. Monitoring or Enforcing. Monitoring or enforcing court orders shall include the use of graduated sanctions. ()

04. Community Supervision. Maintaining community supervision of juveniles in the home, school, and community, based on risk assessment of the juvenile, using at a minimum, the Idaho Juvenile Risk Assessment, or a similar assessment instrument. ()

05. On-the-Job and Other Training. Annual job-related training for juvenile probation officers may include field and on-the-job training and other training. Each policy and procedure shall identify a system for proper documentation of types of training, hours, and attendance. These policies and procedures shall require, at a minimum, twenty (20) hours annually of training or course work in the following: ()

a. The Idaho Juvenile Corrections Act; ()

b. Balanced approach; ()

c. Report writing; ()

d. Probation officer safety; ()

e. State and county statutes and rules; ()

f. Status offender supervision, in accordance with Section 20-516, Idaho Code; ()

g. Case supervision for minimum, moderate, and high risk populations; and ()

h. Gender specific case supervision. ()

06. Professional Responsibility. A copy of the Idaho Juvenile Probation Officer Code of Professional Responsibility as described in Section 200, of these rules, shall be kept in each juvenile probation department. ()

07. Case Documentation. Complete, thorough, and concise, written case documentation, including, but not limited to, ongoing case contact notes with the juvenile and other pertinent parties. ()

08. Professional Contact. Identifying what will be considered appropriate and professional contact with juveniles under court supervision. This policy and procedure shall also address the frequency and location of contacts with juveniles. ()

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DEPARTMENT OF JUVENILE CORRECTIONS **Standards for Juvenile Probation Services**

Docket No. 05-0104-0401
PENDING RULE (New Chapter)

09. Use of Force. Use of force, defusing volatile situations, and documenting and reporting incidents that include the use of force. The policy and procedure shall require individual written and signed reports by probation department personnel and shall include date, time, and circumstances of the incident or the use of force, and identify known witnesses. ()

10. Transportation of Juveniles. At a minimum, this policy and procedure must require that all juvenile probation officers involved in the transport of a juvenile have a valid and active Idaho driver's license in good standing, and that appropriate insurance is in effect for the transporting officer. ()

11. Reporting Abuse. The legal requirement for reporting physical and sexual abuse in accordance with Section 16-1619, Idaho Code, Child Protective Act. ()

12. Search and Seizure. Each juvenile probation department that conducts searches shall have a policy and procedure regarding search and seizure. ()

13. Drug Testing. Drug testing, and documentation of testing of any juvenile under court order or diversion agreements. ()

14. Minimum Job Qualifications. Minimum job qualifications and background information required at the time of a probation officer's employment. These job qualifications are set forth in IDAPA 11.11.03, "Rules of the Idaho Peace Officer Standards and Training Council". ()

15. Medical Records. Confidentiality of juvenile records, access to medical records under the guidelines of HIPAA (Health Information Portability and Accountability Act), and Rule 32 of the Idaho Court Administrative Rules. ()

16. Unscheduled Detention Time. Use of unscheduled detention time or discretionary days in detention. ()

17. Emergencies. Responding to emergency medical situations of juveniles under probation supervision. ()

101. -- 199. (RESERVED).

200. PROFESSIONAL RESPONSIBILITIES.

Juvenile probation officers have professional responsibilities as it relates to the following: ()

01. Legal Rights. Respect and protect the civil and legal rights of the juvenile. ()

02. Discrimination. Refrain from discriminating against any individual because of race, gender, creed, national origin, religious affiliation, age, disability, or any other type of prohibited discrimination. ()

03. Protection. Respect and protect the right of the public to be safeguarded from criminal activity. ()

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04. Welfare. Treat every professional situation with concern for the welfare of the individuals involved and with no intent to personal gain. ()

05. Performance. Refrain from using their positions to secure personal privileges or advantages, or allow personal interests to impair objectivity in the performance of duties while acting in an official capacity. ()

06. Formal or Informal Activity. Refrain from entering into any formal or informal activity or agreement, which presents a conflict of interest or is inconsistent with the conscientious performance of duties. ()

07. Gifts. Refrain from accepting any gift, service, or favor that is or appears to be improper or implies an obligation inconsistent with the free and objective exercise of professional duties. ()

08. Confidentiality. Adhere to state and federal statutes regarding issues of confidentiality of supervised juveniles, and refrain from identifying juveniles, or discussing critical problems or incidents outside of the official work setting. ()

09. Private Information. Preserve the integrity of private information; refrain from seeking information on individuals beyond what is necessary to implement responsibilities and to perform their duties; and refrain from revealing nonpublic information unless expressly authorized to do so. ()

10. Quality of Service. Maintain relationships with colleagues that promote mutual respect within the profession and improve the quality of service. ()

11. Criticism. Refrain from public criticism of their colleagues or their agencies or courts except when warranted, verifiable, and constructive. ()

12. Unethical Behavior. Report to appropriate authorities any corrupt or unethical behavior in which there is sufficient evidence to justify review. ()

13. Civil Service Rules. When acting in the role of administrator, make all appointments, promotions, and dismissals in accordance with established civil service rules, applicable contract agreements, and individual merit, rather than furtherance of personal interests. ()

14. Workplace. Respect, promote, and contribute to a workplace that is safe, healthy, and free of harassment in any form. ()

15. Balanced Approach. Encourage program development, which promotes the ideals of the Balanced Approach identified in Subsection 100.01, of these rules, and the Juvenile Corrections Act. ()

16. Reports. Diligently work to ensure that all information included in their reports concerning juveniles, colleagues, and others is timely, relevant and accurate. ()

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PENDING RULE (New Chapter)

17. Continuing Education. Provide competent supervision of juveniles through continuing education, training and keeping abreast of current trends and developments. ()

201. -- 999. (RESERVED).

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IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 231 through 240.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael N. Becar at (208) 884-7251.

DATED this 29th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is January 8, 2004 and April 29, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

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Idaho Peace Officers Standards and Training Council

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The temporary rule more adequately addresses military discharges, requires more timely notices of employment and entrance into academies so officers are trained and certified within the statutorily allowed twelve months, adds continuing training requirements, eliminates some course attendance requirements for officers challenging the academy who have not been out of law enforcement over five years, and updates the patrol academy curriculum to accurately reflect what is being taught.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael N. Becar at (208) 884-7251.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 13th day of August, 2004.

Michael N. Becar
Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr./P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251
(208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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041. THE RECORDS SYSTEM.

01. Training File. The Idaho Peace Officer Standards and Training Council will maintain a training file on all Idaho law enforcement officers. Officer certifications granted and certified training schools attended by officers will be recorded in these files. (4-5-00)

02. Notification of Employment/Termination. It will be the responsibility of the law enforcement agency head to notify the Council of all presently employed officers every January and July. The names of all officers hired after submission of the original list ~~shall~~ must be submitted to the Council within ~~thirty~~ fifteen (3015) days of employment. The termination of an officer's employment ~~shall~~ must also be relayed to the Council within ~~thirty~~ fifteen (3015) days of such action on an appropriate form designated by the Council. ~~(4-5-00)~~(1-8-04)T

03. Training Record. A training record listing all certified courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's file. (4-5-00)

04. Other Law Enforcement Personnel. A file on other law enforcement personnel may be maintained. This file will contain records for other law enforcement persons who successfully complete POST-certified courses. (4-5-00)

05. Instructors. Names of certified instructors will be maintained. (4-5-00)

06. Instructors and Schools. A list of approved instructors and schools will be maintained. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

053. MILITARY RECORD.

A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service ~~shall~~ will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. ~~(4-2-03)~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

071. BASIC TRAINING ACADEMY.

Every peace and detention officer must begin the respective POST Basic Training Academy within six (6) months from the date of their appointment as a full-time officer. ~~Each and e~~Every peace, detention, juvenile detention, and juvenile probation officer must successfully complete the respective POST Basic Training Academy, including the field training portion, within twelve

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(12) months from the date of their appointment as a full-time officer. This time period includes probationary time. ~~(3-20-04)~~(1-8-04)T

01. Closed Campus. The POST Basic Training Academies will operate as a closed campus Monday through Thursday. The POST Council may consider an exemption to this requirement in the case of a documented severe financial hardship for the applicant where no other alternative exists and provided the applicant's agency head files a written request for review with the POST Council. A trainee granted a hardship exemption will be required to attend all mandatory classes, and must not be late to any class. Unauthorized lateness to or absence from any class will be grounds for revocation of the hardship exemption by the POST Executive Director. (3-20-04)

02. Attendance. Attendance will be required of each trainee at all classes in the Basic Training Academy. A trainee who is absent for more than one (1) day of the academy session must make up such course content. (3-20-04)

03. Completion. A trainee must successfully complete the Basic Training Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course must be repeated. (3-20-04)

04. Field Training. The field training portion must be completed to be eligible for certification. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

075. THE BASIC PATROL ACADEMY TRAINING CURRICULUM.

01. Training Hours. The amount of training for which certification may be granted in the Basic Patrol Academy ~~shall~~ will be a total of ~~four hundred sixty-four (464)~~ six hundred five and one half (605.5) hours, with ~~four hundred twenty-four (424)~~ forty (40) hours received in pre-academy computer-based training, five hundred twenty-five and one half (525.5) hours received at the training academy, and forty (40) hours received in field training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Patrol Academy. ~~(3-15-02)~~(4-29-04)T

02. Requirements. (7-1-93)

a. Successful completion of forty (40) hours of pre-academy computer-based instruction in the following minimum prescribed subject areas will be required:

| <u>Summary</u> | <u>Hours</u> |
|--------------------------|--------------|
| <u>Child Abuse</u> | <u>4</u> |
| <u>Domestic Violence</u> | <u>8</u> |

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| <u>Summary</u> | <u>Hours</u> |
|--------------------------------------|------------------|
| <u>Emotionally Disturbed Persons</u> | <u>4</u> |
| <u>Report Writing</u> | <u>8</u> |
| <u>Sexual Assault Investigation</u> | <u>16</u> |
| <u>Total</u> | <u>40</u> |

(4-29-04)T

ab. Successful completion of ~~four hundred twenty-four (424)~~ five hundred twenty-five and one half (525.5) hours of instruction in the following minimum prescribed subject areas at the Basic Patrol Academy ~~shall~~ will be required:

| <u>Summary</u> | <u>Hours</u> |
|--|--------------------------------|
| Human Relations <u>Professional Orientation</u> | 43 <u>7</u> |
| Law <u>Criminal Justice System</u> | 53 <u>12.5</u> |
| Investigations <u>Police and the Law</u> | 96 <u>44</u> |
| Police Officer and Patrol Procedures <u>Practical Police Skills/Health & Fitness</u> | 157 <u>256</u> |
| Health and Fitness <u>Human Relations</u> | 52 <u>30</u> |
| <u>Investigations</u> | <u>60</u> |
| <u>Patrol Procedures</u> | <u>37</u> |
| <u>Traffic Enforcement</u> | <u>56</u> |
| <u>Administration/Examinations</u> | <u>23</u> |
| <u>Sub-Total</u> | <u>424</u> |
| Field Training Manual | 40 |
| <u>Total</u> | <u>464</u> <u>525.5</u> |

(3-15-02)(4-29-04)T

bc. It is emphasized that the established basic patrol academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a peace officer, as required by the profession, is to be accomplished. (3-15-02)

ed. Successful completion of forty (40) hours of supervised field training in the appointing agency, or another agency if necessary, ~~shall~~ will be required. (3-15-02)(1-8-04)T

03. Procedure. (7-1-93)

a. Trainees ~~shall~~ must be enrolled in the Basic Patrol Academy ~~in sufficient time~~ within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised field training during the twelve (12) month period

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following their appointment as a peace officer.

~~(3-15-02)~~(1-8-04)T

b. The Council ~~shall~~ will issue a certificate of graduation from the Basic Patrol Academy to each trainee who successfully completes the Basic Patrol Academy.

~~(3-15-02)~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

077. THE BASIC DETENTION ACADEMY TRAINING CURRICULUM.

01. Training Hours. The amount of training for which certification may be granted in the Basic Detention Academy ~~shall~~ will be a total of two hundred sixty (260) hours, with two hundred twenty (220) hours received at the training academy and forty (40) hours received in jail training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Detention Academy.

~~(3-15-02)~~(1-8-04)T

02. Requirements.

(3-15-02)

a. Successful completion of two hundred twenty (220) hours of instruction in the following minimum prescribed subject areas at the Basic Detention Academy ~~shall~~ will be required:

| Summary | Hours |
|-----------------------------|------------|
| Jail Standards Procedures | 11 |
| Detention Legal Issues | 34 |
| Practical Skills | 68 |
| Jail Medical Issues | 14 |
| Human Relations | 17 |
| Detention Techniques | 21 |
| Incident Procedures | 18 |
| Emergency Procedures | 13 |
| Physical Wellness | 13 |
| Administration/Examinations | 11 |
| Sub-Total | 220 |
| Jail Training Manual | 40 |
| Total | 260 |

~~(3-15-02)~~(1-8-04)T

b. It is emphasized that the established basic detention academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper

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training of a detention officer, as required by the profession, is to be accomplished. (3-15-02)

c. Successful completion of forty (40) hours of supervised jail training in the appointing agency, or another agency if necessary, ~~shall~~ will be required. (~~3-15-02~~)(1-8-04)T

03. Procedure. (3-15-02)

a. Trainees ~~shall~~ must be enrolled in the Basic Detention Academy ~~in sufficient time~~ within six (6) months from the date of their appointment as a full-time officer to permit completion of the course and the supervised jail training during the twelve (12) month period following their appointment as a detention officer. (~~3-15-02~~)(1-8-04)T

b. The Council ~~shall~~ will issue a certificate of graduation from the Basic Detention Academy to each trainee who successfully completes the Basic Detention Academy. (~~3-15-02~~)(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

092. LAPSE OF PEACE OFFICER CERTIFICATION.

The certification of any peace officer ~~shall~~ will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as peace officers who remain in active law enforcement in Idaho ~~shall~~ will retain their POST certification for purposes of compliance with this rule. The person ~~shall~~ must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This ~~shall~~ includes administrative, jail, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified as peace officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho law and pass the POST Idaho law exam may petition the Executive Director for recertification. The Executive Director ~~shall~~ will have the discretion to grant or deny the petition or may refer the petition to the Council. (~~4-2-03~~)(1-8-04)T

01. Three to Five Years. A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified ~~shall~~ must meet the following POST requirements: (~~4-2-03~~)(1-8-04)T

- a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)
- b. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
 - i. The POST patrol certification examination approved by the Council, conducted in

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the manner set forth in Subsection 097.02.b.; (4-2-03)

- ii. The POST Firearms Qualification Course; (4-2-03)
- iii. The POST Physical Fitness Test Battery; and (4-2-03)
- d. Satisfy the probationary period requirement of Section 062. (4-2-03)

02. Over Five Years. A peace officer who has been out of full-time law enforcement status for over five (5) years ~~shall~~ must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence ~~shall~~ must be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer ~~shall~~ must meet the following POST requirements: ~~(4-2-03)(1-8-04)T~~

a. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

b. Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

c. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

ii. The POST Firearms Qualification Course; (4-2-03)

iii. The POST Physical Fitness Test Battery; and (4-2-03)

d. Satisfy the probationary period requirement of Section 062. (4-2-03)

03. Over Eight Years. A peace officer who has been out of full-time law enforcement status for over eight (8) years ~~shall~~ must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement ~~shall~~ will be granted by the Council. ~~(4-2-03)(1-8-04)T~~

04. Exception. The provisions of Subsections 092.01 through 092.03 ~~shall~~ will not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. ~~(4-2-03)(1-8-04)T~~

(BREAK IN CONTINUITY OF SECTIONS)

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098. CHALLENGING THE BASIC PATROL ACADEMY.

Any peace officer presently appointed by a duly constituted Idaho law enforcement agency who, ~~has~~ within the last five (5) years, ~~has~~ been employed and certified or commissioned by another state or the federal government as a peace officer or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years ~~shall~~ will be eligible for certification in the state of Idaho without attending the Basic Patrol Academy, provided the officer: ~~(4-2-03)(1-8-04)T~~

01. Submission of Challenge Packet. Submits a POST Certification Patrol Challenge Packet to POST Council, which ~~shall~~ must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; ~~(4-2-03)(1-8-04)T~~

02. Law Course Attendance. Attends an approved course of study in Idaho law and passes the POST Idaho law exam; (4-2-03)

~~**03. Attends and Passes POST Courses.** Attends and passes Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems;~~ ~~(4-2-03)~~

043. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-2-03)

a. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 097.02.b.; (4-2-03)

b. The POST Firearms Qualification Course; and (4-2-03)

c. The POST Physical Fitness Test Battery. (4-2-03)

054. Completes Probationary Period. Completes his probationary period as required by Subsection 097.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

131. GENERAL PROVISIONS.

01. Eligibility. To be eligible for the award of a Level I Reserve certificate or Level I Reserve Marine Deputy certificate, each applicant ~~shall~~ must be a reserve peace officer appointed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. ~~(4-2-03)(1-8-04)T~~

02. Minimum Standards. Each applicant ~~shall~~ must meet the minimum standards for employment as provided in Sections 050 through 063, with the exception of fitness which ~~shall~~ will be left to the discretion of the appointing agency. ~~(4-2-03)(1-8-04)T~~

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03. Applications. All applications for award of the Level I Reserve certificate or Level I Reserve Marine Deputy certificate ~~shall~~must be completed on the prescribed form “Application for Certification” as provided by the POST Council. ~~(4-2-03)~~(1-8-04)T

04. Submission. The Application for Certification form ~~shall~~ must be submitted by the applicant to his agency head who ~~shall~~must review it for accuracy prior to signing it and forwarding it to the Council. Certificates ~~shall~~ must be issued to the agency head for award to the applicant. ~~(4-2-03)~~(1-8-04)T

05. Supervision. All certified reserve peace officers ~~shall~~ must be under supervision of a full-time peace officer. The term “supervision” is intended to limit the activities of a reserve peace officer. Each agency ~~shall~~ must draft its individual agency policy in reference to the supervision of its certified reserve peace officers, and that policy ~~shall~~ must be kept on file within each agency. ~~(4-2-03)~~(1-8-04)T

06. Limitation. A reserve peace officer's certification ~~shall~~ will be effective only during those periods when he is formally assigned by the appointing agency to perform the duties of a peace officer. ~~(4-2-03)~~(1-8-04)T

07. Retaining Certification. A certified reserve peace officer ~~shall~~ must satisfy the continuing training requirements of Sections 360 through 363 and work one hundred twenty (120) hours annually in a peace officer capacity to retain certification. Documentation of hours worked ~~shall~~ must be kept on file at the appointing agency. Any reserve peace officer not satisfying the continuing training requirements of Sections 360 through 363 or working less than one hundred twenty (120) hours annually ~~shall~~ must complete all requirements as set forth in Sections 130 through 131 and either Sections 132 through 135 or 146 through 149 to be recertified. ~~(4-2-03)~~(1-8-04)T

08. Full-Time Peace Officer Status. To be certified as a full-time peace officer, a reserve peace officer, upon appointment to full-time peace officer status, ~~shall~~ must comply with the requirements in Sections 093 through 097. ~~(4-2-03)~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

171. LAPSE OF DETENTION OFFICER CERTIFICATION.

The certification of any county detention officer ~~shall~~ will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified as county detention officers who remain in active law enforcement in Idaho ~~shall~~ will retain their POST certification for purposes of compliance with this rule. The person ~~shall~~ must satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours active law enforcement per year. This ~~shall~~ includes administrative, patrol, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified as county detention officers in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who attend an approved course of study in Idaho detention legal issues and pass the POST

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Idaho detention legal issues exam may petition the Executive Director for recertification. The Executive Director ~~shall~~ will have the discretion to grant or deny the petition or may refer the petition to the Council. ~~(4-2-03)(1-8-04)T~~

01. Three to Five Years. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified ~~shall~~ must meet the following POST requirements: ~~(4-2-03)(1-8-04)T~~

- a. Submit a POST Certification Detention Challenge Packet; (4-2-03)
- b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
 - i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)
 - ii. The POST Firearms Qualification Course; (4-2-03)
 - iii. The POST Physical Fitness Test Battery; and (4-2-03)
- d. Satisfy the probationary period requirement of Section 062. (7-1-99)

02. Over Five Years. A county detention officer who has been out of full-time law enforcement status for over five (5) years ~~shall~~ must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence ~~shall~~ must be submitted with a POST Certification Detention Challenge Packet. Upon receiving a waiver, the officer ~~shall~~ must meet the following POST requirements: ~~(4-2-03)(1-8-04)T~~

- a. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)
- b. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)
- c. Pass the following tests administered by a POST Training Specialist: (4-2-03)
 - i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.; (4-2-03)
 - ii. The POST Firearms Qualification Course; ~~and~~ ~~(4-2-03)(1-8-04)T~~
 - iii. The POST Physical Fitness Test Battery; and ~~(4-2-03)(1-8-04)T~~

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- d. Satisfy the probationary period requirement of Section 062. (7-1-99)

03. Over Eight Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years ~~shall~~ must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement ~~shall~~ will be granted by the Council.

~~(4-2-03)~~(1-8-04)T

(BREAK IN CONTINUITY OF SECTIONS)

177. CHALLENGING THE BASIC DETENTION ACADEMY.

Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years ~~shall~~ will be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer:

~~(4-2-03)~~(1-8-04)T

01. Submission of Challenge Packet. Submits a POST Certification Detention Challenge Packet to POST Council, which ~~shall~~ must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience;

~~(4-2-03)~~(1-8-04)T

02. ~~Attends and Passes~~ Detention Legal Issues Course Attendance. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam;

~~(4-2-03)~~(1-8-04)T

03. ~~Attends and Passes POST Certified Courses.~~ Attends and passes Idaho POST certified courses in Arrest Techniques, Handgun Retention, and Practical Problems;

~~(4-2-03)~~

043. Passes Required Tests. Passes the following tests administered by a POST Training Specialist:

(4-2-03)

a. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.b.;

(4-2-03)

b. The POST Firearms Qualification Course; and

(4-2-03)

c. The POST Physical Fitness Test Battery.

(4-2-03)

054. Completes Probationary Period. Completes his probationary period as required by Subsection 176.01.

(4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

336. -- ~~999~~359.(RESERVED).

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360. MINIMUM STANDARDS FOR CONTINUING TRAINING.

361. REQUIREMENTS.

To retain certification, from and after January 1, 2004, every peace officer and county detention officer appointed by an agency must satisfactorily complete forty (40) hours of continuing training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. The continuing training completed does not have to be POST-certified training. (1-8-04)T

362. DOCUMENTATION.

01. Submission of Written Certification. In January of each year, the law enforcement agency head must submit written certification to the Council of the number of hours of continuing training each officer within his agency has completed during the previous calendar year. (1-8-04)T

02. No Credit on POST Training Record. The Council will accept written certification from the agency head as proof that an officer has satisfactorily completed the required forty (40) hours of continuing training every two (2) calendar years. However, no officer will be awarded training hours on his POST training record for any training completed which has not been certified by the Council as set out in Sections 281 through 311 of these rules. (1-8-04)T

363. RECORDS.

01. Training Course. A file on each continuing training course completed must be maintained by the agency and must be readily available to the POST Council. The file must include: (1-8-04)T

- a.** The name of the course provider; (1-8-04)T
- b.** The name and resume of the course instructor; (1-8-04)T
- c.** The course learning objectives; (1-8-04)T
- d.** The course schedule listing the number of instructional hours; (1-8-04)T
- e.** The number of continuing training hours awarded; (1-8-04)T
- f.** The attendance policy, attendance rosters, and the methodology for ascertaining and validating trainee attendance and participation; and (1-8-04)T
- g.** The names of the trainees completing the course and the date they completed the course. (1-8-04)T

02. College Course. An officer fulfilling the continuing training requirement by successfully completing a college course must provide a transcript from the college to the

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appointing agency. The transcript must be maintained by the agency and must be readily available to the POST Council. (1-8-04)T

364. -- 999. (RESERVED).

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IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS

DOCKET NO. 21-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 65-201, 65-202, 65-203, 65-204, and 65-207, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking is in response to input from veterans service organizations and legislators regarding the current requirement that applicants for Division's Emergency Grant list Idaho as their Home of Record during their wartime service. This rule change would give the Division Administrator the authority to waive the Home of Record requirement if the veteran applying for the grant resided in Idaho for at least five (5) years.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2004, Idaho Administrative Bulletin, Volume 04-8, pages 170 and 171.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tina Basel at (208) 334-3513.

DATED this 20th day of September, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-201, 65-202, 65-203, 65-204, 65-207, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 2004.

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DIVISION OF VETERANS SERVICES
Rules Governing Emergency Relief for Veterans

Docket No. 21-0102-0401
PENDING RULE

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is proposed in response to input from veteran service organizations and legislators regarding the requirement that applicants for the Emergency Grant list Idaho as their Home of Record during their wartime service. We are proposing that the Division Administrator have the authority to waive the Home of Record requirement if the veteran has resided in Idaho for a period of at least five years.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. N/A

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2004.

DATED this 24th day of June, 2004.

Richard W. Jones, Administrator
Idaho Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Telephone: (208) 334-3513 - Fax (208) 334-2627

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS.

~~There are no written interpretations for this Chapter.~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Veterans Services' office. ~~(3-30-01)()~~

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(BREAK IN CONTINUITY OF SECTIONS)

012. BASIC ELIGIBILITY.

The applicant must ~~be a(n)~~ prove that he or she meets each of the following eligibility criteria:

~~(3-30-01)~~(____)

01. Bona Fide Resident. ~~At the time of application, the applicant must provide proof that he maintains, at the time of application, a principal or primary place of abode in the state of Idaho coupled with and has the present intent to remain at that home or abode and return to it after any period of absence.~~

~~(3-30-01)~~(____)

02. Wartime Armed Forces Veteran. Pursuant to Section 65-203, Idaho Code, the applicant is a person whose home of record was Idaho while serving during a wartime period and who actually served during any war or conflict officially engaged in by the government of the United States and was discharged, who served on active duty in the United States armed forces at some time during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits as may be defined in Title 38, U.S. Code, Chapter 1, Section 101(11), who was separated or discharged under honorable conditions, after ninety (90) or more days of military service continuous active duty or was separated from military service earlier or discharged earlier under honorable conditions because of a service-connected disability.

~~(5-3-03)~~(____)

03. Idaho as Home of Record. Idaho was the applicant's home of record while completing his or her wartime service. The Division Administrator may waive the home of record requirement if the applicant has resided in Idaho for a minimum of five (5) years.

(____)

House Judiciary Rules Committee

IDAPA 49 - BOARD OF CERTIFIED SHORTHAND REPORTERS

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 649 through 657.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret Odedo, Executive Secretary, at (208) 334-2517.

DATED this 28th day of October 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-3107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

House Judiciary Rules Committee

CERTIFIED SHORTHAND REPORTERS BOARD**Docket No. 49-0101-0401****Rules of Procedure of the Certified Shorthand Reporters Board PENDING RULE**

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The majority of the proposed changes are housekeeping or clerical in nature: updating references to office address and contact information; adding standard formatting rules required by the Office of Administrative Rules; and eliminating “rules” that reference information or requirements already appearing in statute (for instance, the details of examination requirements) or that provide internal operating mechanisms not appropriate for inclusion in the rules (such as the order of business for meetings). The rules are also being revised to eliminate the previous disciplinary hearing provisions and to incorporate the contested case provisions of the Idaho Administrative Procedures Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased pursuant to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the relatively simple nature of the rule making and due to a lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Margaret Odedo, Executive Secretary, at (208) 334-2517.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 24th day of August, 2004.

Margaret Odedo
Executive Secretary
Idaho Certified Shorthand Reporters Board
3350 Americana Terrace, Ste. 243
P. O. Box 83720, Boise, ID 83720-0017
Phone: (208) 334-2517
Fax: (208) 334-5211

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS.

Written interpretations, if any, of this chapter are available for review at the board office. ()

003. ADMINISTRATIVE APPEALS.

~~The Board shall hold hearings on disputed matters or complaints as provided for in the Act, in these Rules of Procedure, or in Title 67, Chapter 52, Idaho Code. The chairman, or a member of the Board appointed by the chairman, shall act as presiding officer at all hearings. Rules of~~

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~~procedure for the conduct of such hearings shall be in accordance with the applicable provisions of the Act, of these Rules of Procedure, and of Administrative~~ appeals shall be governed by the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (1-1-97)()

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in these rules. ()

005. OFFICE INFORMATION.

01. Street Address. The offices of the Idaho Certified Shorthand Reporters Board are located at 3350 Americana Terrace, Suite 243, Boise, Idaho. ()

02. Mailing Address. The mailing address of the board is P. O. Box 83720, Boise, Idaho 83720-0017. ()

03. Telephone Number. The telephone number of the board is (208) 334-2517. ()

04. Facsimile. The board's FAX number is (208) 334-5211. ()

05. Electronic Address. The board's web address is www2.state.id.us/csr. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are subject to and in compliance with the Idaho Public Records Act. ()

007. FILING OF DOCUMENTS.

All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case must be filed with the Executive Secretary of the board. One (1) original is sufficient for submission to the hearing officer, with one (1) copy for the board and one (1) copy submitted to the opposing party. Whenever documents are filed by facsimile transmission (FAX), originals shall be deposited in the mail the same day or hand delivered the following business day to the hearing officer or the board, and opposing parties. ()

008. CHANGES IN NAME AND ADDRESS – ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of registrant name occurs, the board must be immediately notified of the change. Documentation confirming the change of name must be provided to the board on request. ()

02. Change of Address. Whenever a change of registrant mailing address occurs, the board must be immediately notified of the change. ()

03. Address for Notification Purposes. The most recent mailing address on record with the board will be utilized for purposes of all written communication with the registrant including, but not limited to, notification of renewal and notices related to disciplinary actions. ()

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~~004.~~—009. (RESERVED).

010. DEFINITIONS.

For the purpose of these rules:

(7-1-93)

01. Act. Title 54, Chapter 31, Idaho Code.

(1-1-97)

~~**02. Shorthand Reporting.** The making of written symbols or abbreviations in shorthand or machine shorthand writing of a verbatim record of any oral court proceedings, deposition, or proceedings before any grand jury, referee, or commission.~~

~~(1-1-97)~~

~~**03. Certified Shorthand Reporter Or Its Abbreviation C.S.R.** Any person holding a valid regular or temporary certificate as a shorthand reporter as provided in the Act.~~

~~(1-1-97)~~

042. Board. The Idaho Certified Shorthand Reporters Board.

(7-1-93)

~~**05. Official Court Reporter.** The official court reporter of a federal district court in the state or the district court reporter of the state district court, but does not include any reporter of the magistrates' division of the state district court.~~

~~(7-1-93)~~

~~**06. Freelance Reporter.** Any shorthand reporter engaged in the practice of shorthand reporting as defined in the Act, who is not an official court reporter.~~

~~(1-1-97)~~

~~**07. Temporary Certified Shorthand Reporter.** Any person who possesses the education, character, and proficiency as specified in Section 54-3109, Idaho Code.~~

~~(7-1-93)~~

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS BOARD MEETINGS.

~~**01. Offices.** The principal office of the Board shall be maintained at 550 West State Street, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0017, to which all correspondence, and fees shall be directed. The telephone number of the Board is (208) 334-2517.~~

~~(1-1-97)~~

~~**02. Meetings.** The Board shall meet at least once a year. In addition to this annual meeting, the president may call special meetings from time to time when it is deemed necessary, or upon request of two (2) or more members of the Board.~~

~~(1-1-97)()~~

~~**03. Order Of Business.** The order of business at meetings shall be as follows:~~

~~(7-1-93)~~

~~**a.** Reading of minutes.~~

~~(7-1-93)~~

~~**b.** Financial report.~~

~~(7-1-93)~~

~~**c.** Reports of officers.~~

~~(7-1-93)~~

~~**d.** Reports of committees.~~

~~(7-1-93)~~

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- ~~e.~~ ~~Reading of communications.~~ ~~(7-1-93)~~
- ~~f.~~ ~~Unfinished business.~~ ~~(7-1-93)~~
- ~~g.~~ ~~New business.~~ ~~(7-1-93)~~
- ~~h.~~ ~~Consideration of applications and fees.~~ ~~(7-1-93)~~
- ~~i.~~ ~~Consideration of charges, suspensions and revocations.~~ ~~(7-1-93)~~
- ~~j.~~ ~~Election of officers for the ensuing year.~~ ~~(7-1-93)~~
- ~~k.~~ ~~Miscellaneous.~~ ~~(7-1-93)~~
- ~~l.~~ ~~Adjournment.~~ ~~(7-1-93)~~
- ~~m.~~ ~~Roberts' Rules of Order shall govern procedure of the Board except as otherwise provided by the Act or these rules and Rules of Procedure.~~ ~~(1-1-97)~~

04101. OFFICERS.

Officers elected from the Board shall be president, and secretary/treasurer. An executive secretary may be appointed who is not a member of the Board. ~~(1-1-97)~~(____)

~~a.~~ ~~The president shall be the executive head of the Board and shall: preside at meetings; appoint committees; perform all duties pertaining to the office of the president.~~ ~~(1-1-97)~~

~~b.~~ ~~The secretary/treasurer shall, with the assistance of the executive secretary and under the direction of the Board, perform the following functions and duties:~~ ~~(1-1-97)~~

~~i.~~ ~~Keep correct minutes of the Board and furnish a copy to all members of the Board;~~ ~~(1-1-97)~~

~~ii.~~ ~~Send written notice of all regular and special Board meetings to each certified shorthand reporter member in good standing not less than ten (10) days in advance thereof;~~ ~~(1-1-97)~~

~~iii.~~ ~~Review each application for temporary or regular certification for essential data prior to consideration thereof by the Board;~~ ~~(1-1-97)~~

~~iv.~~ ~~Address inquiries, where deemed necessary, to references of applicants to verify qualification, experience, or character;~~ ~~(1-1-97)~~

~~v.~~ ~~Make arrangements, as required by the Board, for examinations, interviews and hearings;~~ ~~(1-1-97)~~

~~vi.~~ ~~Report to the Board members the result of every examination;~~ ~~(1-1-97)~~

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~~vii. Keep all records, including minutes, register of applicants for examination and a roster of Idaho certificate holders;~~ (7-1-93)

~~viii. Receive and deposit all funds and fees, as provided by the Act, and keep records of all deposits and disbursements;~~ (1-1-97)

~~ix. Perform all other duties as prescribed by the Act or which normally pertain to the office of secretary/treasurer.~~ (1-1-97)

05102. COMMITTEES.

Regular or special committees may be appointed by the president and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services during examinations or as the Board may assign to them. (1-1-97)

061. Quorum. ~~As provided in the Act, a~~ A quorum shall be at least three (3) members of the Board legally holding office at the time of meeting. ~~Official business of the Board president shall be conducted only at Board meetings with a quorum present~~ not vote except to break a tie. (1-1-97)()

07. Fees. ~~The Board shall be entitled to charge and collect such fees as authorized in the Act.~~ (1-1-97)

082. Certificates. Certificates of registration shall be issued to each certified shorthand reporter, as prescribed by the Act, on forms adopted by the Board. Certificates shall be displayed by certified shorthand reporters in their place of business. A new certificate may be issued by the Board to replace one lost, destroyed, or mutilated upon receipt of a replacement fee of ten dollars (\$10). Each certificate shall bear an individual number as assigned to that particular C.S.R. by the Board. (1-1-97)

09. Amendments. ~~The rules may be amended by a majority vote of Board membership at any regular or special meeting of the Board after prior notice by publication as may be required by the provisions of Title 67, Chapter 52, Idaho Code.~~ (1-1-97)

1043. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

300. EXAMINATIONS.

01. ~~Time And Place~~ Examination Process. (1-1-97)()

~~a. Examinations for certified shorthand reporter shall be held annually or semi-annually, the exact time and place to be determined by the Board.~~ (1-1-97)

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~~ba.~~ Late applicants shall not be admitted to the examination room. (1-1-97)

~~02.~~ **~~Examination Required.~~** ~~Every applicant for certification shall take and pass an examination as prescribed by the Board except as may be specifically exempted from such examination under the terms of the Act.~~ (1-1-97)

~~03.~~ **~~Eligibility.~~** (7-1-93)

~~a.~~ ~~Any person having graduated from an accredited high school or having had an equivalent education shall be entitled to take an examination for certification as a shorthand reporter as provided in the Act.~~ (1-1-97)

~~b.~~ ~~An applicant shall further be of good moral character and shall have filed a complete application with the Board, accompanied by the nonrefundable required fee, as set forth in the Act.~~ (1-1-97)

~~04.~~ **~~Residence.~~** ~~Residency is not required to practice court reporting in Idaho. Nonresidents who pass the Idaho examination shall be issued a valid Idaho certificate.~~ (7-1-93)

~~05b.~~ **~~Picture Identification.~~** Picture identification shall be shown by all applicants before taking an examination. (7-1-93)(____)

~~06.~~ **~~Examination Irregularities.~~** (7-1-93)

~~ac.~~ Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized material or devices during the examination is strictly prohibited. (1-1-97)

~~bd.~~ Only scheduled examinees, Board members, the executive secretary and authorized personnel shall be admitted to the examination room. (1-1-97)

~~072.~~ **Scope of Examination.** (7-1-93)

a. The complete examining procedure for certification as a certified shorthand reporter consists of two (2) sections. The first section is the written examination covering subjects as are ordinarily given in a school of court reporting and which are common to all fields of practice. The second section is the skills portion which shall consist of the following "takes" and speeds. (1-1-97)

- i. Question and Answer - Two hundred twenty-five (225) words per minute. (1-1-97)
- ii. Jury Charge - Two hundred (200) words per minute. (1-1-97)
- iii. Literary - One hundred eighty (180) words per minute. (1-1-97)
- iv. Density of Exam - The syllabic content of the dictated exam shall be one point four (1.4). (7-1-93)

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b. Examination prepared and graded by the National Court Reporters Association (NCRA) may be used by the Board. (1-1-97)

c. The examination is the same for all applicants. (7-1-93)

d. The examining committee which shall consist of the three C.S.R. Board members, shall inform applicants of the approximate time allowed for typing the skills portion of the examination. (1-1-97)

e. These “takes” can be passed individually for the Idaho examination. ()

~~083.~~ Grading. (7-1-93)

a. Each applicant must attain a grade of seventy-five percent (75%) or above to pass the written examination and ninety-five percent (95%) or above in each “take” to pass the skills portion. (1-1-97)

b. Every applicant receiving a grade of less than seventy-five percent (75%) in the written examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

c. Every applicant receiving a grade of less than ninety-five percent (95%) in each “take” shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

d. An applicant failing either the written section, or the skills portion, and having filed a new application for examination, shall be required to take and pass within a two-year period only the section for which a failing grade was received. (1-1-97)

~~094.~~ Inspection of Examination. (7-1-93)

a. An applicant who fails to obtain a passing grade in the skills portion may inspect his/her examination papers at such times and locations as may be designated by the Board. Inspection of such examination papers shall be permitted within a thirty (30) day period after receipt of notice by the applicant of his/her failure to pass the examination. (1-1-97)

b. At the time of inspection no one other than the examinee or his/her attorney and a representative of the Board shall have access to such examination papers. (1-1-97)

~~405.~~ Inspection Review. (7-1-93)

a. Within thirty (30) days after the date notice of the results of the examination has been mailed to him/her, an applicant who was unsuccessful in the examination may petition the Board for a review of his/her examination papers. (1-1-97)

b. The petition for review shall be made in writing stating the reason for such review and citing the item or items against which the request is directed. (7-1-93)

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c. The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. (1-1-97)

~~406.~~ Retention of Examinations. The Board shall retain for at least six (6) months, all examination papers and notes submitted by applicants. (1-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 4999. (RESERVED).

~~500. RULES FOR REVOCATION, SUSPENSION OR REINSTATEMENT OF CERTIFIED SHORTHAND REPORTERS' CERTIFICATES.~~

~~01. Scope And Purpose.~~ Pursuant to Title 54, Chapter 31, Idaho Code, the following procedures are adopted to govern the revocation, suspension, or reinstatement of the regular or temporary certificate of a certified shorthand reporter by the Idaho Certified Shorthand Reporters Board. (1-1-97)

~~02. Grounds For Revocation Or Suspension.~~ The Board may revoke or suspend a certificate for any of the reasons provided by law. (1-1-97)

~~03. Complaint And Preliminary Investigation.~~ (7-1-93)

~~a.~~ Upon receiving a verified complaint in writing, which is not obviously unfounded or frivolous, from a member of the Board, from a reporter, or from any person claiming to have been injured or defrauded, setting forth possible grounds for revocation or suspension of a certificate, the Board shall determine if a preliminary investigation is to be conducted. (1-1-97)

~~b.~~ Upon receiving such information from other sources or in forms other than a verified complaint, as provided in Subsection 500.03.a. above, the Board may cause a preliminary investigation to be conducted. (1-1-97)

~~c.~~ The preliminary investigation shall be conducted by a person appointed by the Board. A written report of the investigation shall be furnished to the Board. (1-1-97)

~~d.~~ The reporter in question shall be notified upon commencement of a preliminary investigation, unless the Board determines that early notice may impair the investigation. In any event, the reporter shall be notified, and afforded an opportunity to provide information to the investigator before completion of the preliminary investigation. The notice shall furnish such information as may be necessary to inform the reporter of the subject matter and purpose of the preliminary investigation. (1-1-97)

~~e.~~ Upon receipt of the report of preliminary investigation, the Board shall determine any of the following: (1-1-97)

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~~i. The matter should be closed for lack of reasonable cause to believe that there exists any grounds for revocation or suspension of the certificate; (1-1-97)~~

~~ii. The matter should be closed upon informal admonition to the reporter; (7-1-93)~~

~~iii. Formal proceedings for revocation or suspension of the certificate should be instituted. The reporter and any complaining party shall be notified promptly of the Board's determination. (1-1-97)~~

~~f. Any papers submitted to, or other information received by the Board before or during the preliminary investigation, shall be confidential and privileged. However, confidentiality shall cease if waived by the reporter or if public statements are made by any party, requiring the Board to respond in order to clear the public record. Moreover, if the Board institutes formal proceedings, it shall cause a formal proceedings file to be created, containing all papers and information relevant to the formal proceedings; and such papers and information shall no longer be confidential. (1-1-97)~~

~~**04. Interim Suspension Of Certificate.** If the Board institutes formal proceedings, and if the Board finds from the report of preliminary investigation that fraud or injury to any person, or irreparable harm to the administration of justice is likely to result from allowing a certificate to remain in force during formal proceedings, the Board may, upon furnishing the reporter in question a reasonable opportunity to be heard, suspend the certificate or impose conditions for allowing it to remain in force while formal proceedings are pending. The Board may review and modify any such order upon notice and reasonable opportunity to be heard, at any time until formal proceedings are concluded. (1-1-97)~~

~~**05. Formal Proceedings.** (7-1-93)~~

~~a. Upon determining to institute formal proceedings, the Board may appoint an examiner, who may have been the investigator, but who must be the attorney general of the state of Idaho or one of his/her assistants designated by him/her, to prepare and assist in a complaint for revocation or suspension of the certificate. (1-1-97)~~

~~b. The complaint shall be filed with the Board and served personally upon the reporter, together with a summons to answer. The time and method of answering, all other procedures, and the record compiled, shall be provided in Title 67, Chapter 52, Idaho Code, and as provided in the Idaho Rules of Civil Procedure to the extent that such rules are not inconsistent with the Act or with the rules set forth herein. (1-1-97)~~

~~c. The Board shall be the hearing body. The secretary of the Board shall maintain the file of formal proceedings. Any member of the Board may administer oaths and affirmances, or subpoena witnesses. The Board may hear and receive evidence at any location in the state of Idaho, upon at least twenty (20) days' notice to the reporter in question. The Board may continue its hearing from time to time, and from place to place, as justice may require. (1-1-97)~~

~~d. The reporter shall have the right to be represented by counsel at all stages of formal proceedings. (7-1-93)~~

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~~06. Disposition.~~

~~(7-1-93)~~

~~**a.** At any time prior to conclusion of formal proceedings, the Board may dismiss the complaint if it finds that the evidence is unlikely to establish grounds for revocation or suspension of the certificate, or dismissal otherwise would be in the interest of justice.~~

~~(1-1-97)~~

~~**b.** Upon conclusion of formal proceedings, or upon the filing of a stipulation by the reporter, the Board shall prepare written findings of fact and conclusions of law, and shall enter an order of any of the following:~~

~~(1-1-97)~~

~~**i.** Dismissing the complaint;~~

~~(7-1-93)~~

~~**ii.** Revoking or suspending the certificate;~~

~~(7-1-93)~~

~~**iii.** Censuring the reporter and/or allowing the certificate to remain in force, subject to certain conditions.~~

~~(7-1-93)~~

~~**c.** Where grounds for revocation or suspension are established, the Board may consider other circumstances, including any prior actions taken by the Board against the reporter, in selecting the appropriate disposition.~~

~~(1-1-97)~~

~~**d.** Censure or imposition of conditions may be selected where grounds for revocation or suspension have been established, but the Board determines, from all the circumstances, that justice requires a lesser sanction. Suspension may be coupled with imposition of such other concurrent or subsequent conditions as the Board may deem just.~~

~~(1-1-97)~~

~~**07. Change Of Disposition.** The Board may reinstate a certificate that has been revoked or suspended, or may modify or discontinue any conditions imposed, when the reporter submits a verified application with an application fee as set forth in the Act, if the Board finds that.~~

~~(1-1-97)~~

~~**a.** Grounds for revocation, suspension or imposition of condition no longer exists; or~~

~~(7-1-93)~~

~~**b.** The reporter has made adequate restitution for any damages caused by his/her prior actions or omissions, (including the costs of proceedings before the Board), has complied with any other condition imposed by the Board, and has demonstrated good moral character sufficient to indicate that the misconduct shall not recur. If the certificate was originally revoked or suspended for incompetency, the reporter shall also be required to take and pass the reporters' examination and to pay an examination fee.~~

~~(1-1-97)~~

~~**08. Right To Appeal.** Any person who shall be aggrieved by any action of the Board in denying, refusing to renew, suspending or revoking a certified shorthand reporter certificate may appeal to the district court. The appeal shall be as provided in Idaho Code Section 54-3114, and Idaho Code Section 67-5270.~~

~~(1-1-97)~~

~~09. Miscellaneous Provisions.~~

~~(1-1-97)~~

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~~**a.** No reporter member of the Board shall participate as a Board member in any investigation or proceedings in regard to his/her own certificate; nor shall any judge member of the Board participate as a Board member in any investigation or proceedings as to an official reporter appointed by him.~~ ~~(1-1-97)~~

~~**b.** The Board may send any notice required under these rules by certified mail to a reporter at his/her last address indicated in the records of the Board.~~ ~~(1-1-97)~~

~~**501.—999. (RESERVED).**~~